



Royal Wills and Rome

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ROYAL WILLS AND ROME

The purpose of this article is to offer an interpretation of the factors which caused kings and members of their houses to make wills involving Rome and Romans. A few of these wills have been much discussed, but most have not and some are all but unknown to the vast majority of ancient historians: nowhere have they all been gathered together before. Therefore the first parts of this study (Parts I–IV) will constitute a collection of all the relevant wills, together with an assessment both of the wills themselves and of their attendant circumstances. The intention is not to re-tread well trodden paths: where a will is well-known it will be discussed only in so far as it raises matters of particular importance for the present study. The final part (Part V) will be entirely devoted to an interpretation of the material thus collected and assessed.

Wills made under the Republic fall into three categories: first, wills in which a king bequeathed his kingdom to the *populus Romanus* (Part I); second, wills in which a king named the *populus Romanus* as guardian of his heir(s) (Part II); third, the case of Massinissa (Part III). As we shall see, Massinissa probably left no will involving Rome or Romans and is therefore strictly irrelevant: but, for all that, his case is important for this study, not least because it helps to bridge the gap between the wills of the Republic and those of the Empire. These last will be treated in a separate category (Part IV), for, despite obvious affinities with earlier wills, they are essentially distinct.

I

On 24 August 1929, in the Square of Apollo's Fountain at Cyrene, a marble stele was discovered, bearing the text of a will of Ptolemy VIII (or VII) Euergetes II: hence, simply Physcon:¹

Ἔτους πεντεκαίδεκάτου, μηνὸς Λώιου.
Ἀγαθῇ τύχῃ. Τάδε διέθετο βασιλεὺς
Πτολεμαῖος βασιλέως Πτολεμαίου
καὶ βασιλίσσης Κλεοπάτρας, θεῶν
Ἐπιφανῶν, ὁ νεώτερος· ὧν καὶ τὰ ἀντίγραφα 5
εἰς Ῥώμην ἐξαπέσταλται. Εἴη μὲν μοι
μετὰ τῆς τῶν θεῶν εὐμενείας μετελθεῖν
καταξίως τοὺς συστησάμενους ἐπὶ με
τὴν ἀνόσιον ἐπιβουλήν καὶ προελομένους
μὴ μόνον <ον> τῆς βασιλείας, ἀλλὰ καὶ 10
τοῦ ζῆν στερῆσαι με· ἐὰν δέ τι συμβαίνει
τῶν κατ' ἄνθρωπον πρότερον ἢ διαδόχους

For bibliographical abbreviations, see pp. 54–57.

¹The first publication, still most valuable, is Oliverio (1932). For a re-publication and bibliography, see *SEG* IX. 7 and Will (1967) 305–6. Notable among recent discussions are Scullard (1973) 231 and 236; Sherwin-White (1977a) 66–7; Applebaum (1979) 62–3.

ἀπολιπεῖν τῆς βασιλείας, καταλείπω
 Ῥωμαίοις τὴν καθήκουσάν μοι βασιλείαν,
 οἷς ἀπ' ἀρχῆς τὴν τε φιλίαν καὶ τὴν 15
 συμμαχίαν γνησίως συντητήρηκα·
 τοῖς δ' αὐτοῖς παρακατατίθεμαι τὰ πράγματα
 συντηρεῖν, ἐνευχόμενος κατὰ τε τῶν θεῶν
 πάντων καὶ τῆς ἑαυτῶν εὐδοξίας, εἰάν τινες 20
 ἐπίωσιν ἢ ταῖς πόλεσιν ἢ τῇ χώρῃ, βοηθεῖν
 κατὰ τὴν φιλίαν καὶ συμμαχίαν τὴν <πρὸς>
 πρὸς ἀλλήλους ἡμῖν γενομένην καὶ τὸ
 δίκαιον παντὶ σθένει.
 Μάρτυρας δὲ τούτων ποιοῦμαι Δία τε τὸν
 Καπετώλιον καὶ τοὺς Μεγάλους θεοὺς 25
 καὶ τὸν Ἥλιον καὶ τὸν Ἀρχηγέτην Ἀπόλλωνα,
 παρ' ᾧ καὶ τὰ περὶ τούτων ἀνιέρωται γράμματα.
 Τύχηι τῇ ἀγαθῇ.

(SEG IX. 7)

The text is fundamental to any study of this nature since, as far as we know, it constitutes the earliest will by which a king bequeathed his kingdom—in this case, Cyrenaica—to the Romans. Moreover, it is the only will whose text has survived *in extenso*.

In fact, this text is our only sure evidence as to the very existence of the will. Polybius is notably silent, though he may have mentioned the will in a lost portion of his *Histories*. The only literary evidence for the will is a confused passage of Festus, from which similar passages in Ammianus and Jordanes seem to be derived. But these literary sources tell us nothing and their very relevance to Physcon's will is dubious: any interpretation must be based upon the inscription itself.²

The status of the inscription is crucial and has been much debated, particularly in the years following its first publication in 1932. Despite the importance of the document and the fact that no orthodox interpretation of it has emerged, scholars have seldom discussed it in more recent years: therefore, in some respects, the debates of the 1930s are still very much alive.

Some hold that the inscription is not the text of a will of Physcon. The leading proponent of this view is Otto, who argues that the inscription contains no more than a few lines of the original will. The original will, according to Otto, was drawn up in 162 B.C., but was not made known until 155 B.C., the year to which the inscription is dated.³

²The late authorities are: Fest. *Brev.* 13. 2; Amm. Marc. xxii, 16. 24; Jord. *Rom.* 229. On these see Eadie (1967) 126–7. As Winkler (1933) 58 n. 103 observes, the garbled nature of these texts makes their very relevance dubious. Piganiol (1933) 419–20 uses Jordanes to argue that Physcon stipulated in his will that the cities of the kingdom should be free, but, quite apart from the absence of the stipulation from the inscription and that, as Piganiol allows, Jordanes is not the best authority, it seems probable that Jordanes' *libertate* is a corruption of Festus' *liberalitate*.

³Otto (1934) 97–110, esp. 106. See, *contra* Otto, Will (1967) 305 and Briscoe (1969) 51 n. 13.

Others, notably Wilcken and Bickermann, take the inscription to be, for the most part, an accurate copy of Physcon's will, though it is argued that the perfect verbs of lines 5–6 and line 27, and thus the clauses in which they stand, were not part of the original text of the will. On this view, the date on the inscription, 155 B.C. is the date of the original will, but the will was not published (in the form of the inscription) until the time of Physcon's actual heir, Apion, or even later.⁴

Neither of these two views can stand. *Pace* Otto, there is no reason to deny that the text of the inscription is that of the will itself. In fact, the text of the inscription corresponds closely to the private wills of the Hellenistic world.⁵ Minor idiosyncrasies in Physcon's will can hardly be pressed, for it is not the will of an ordinary individual: it is the will of a Ptolemaic king. Further, *pace* Bickermann, there is no reason to exclude the perfect clauses of lines 5–6 and line 27. The perfect tense is used because in both places Physcon refers to actions which will already have been taken by the time the inscription was set up.⁶ There is no reason to suppose any distinction between the text of Physcon's will and that of the inscription. The view that the inscription was not cut until considerably later than 155 B.C. seems unnecessary and lacks any support in the sources. More positively, the identity of the will and the inscription is supported by the fact that the inscription tells us that a copy of its text was sent to Rome (lines 5–6). This would only have been done if the text were of particular importance, such as that of a will. Moreover, there is a Ptolemaic parallel, for, as we shall see, Auletes sent a copy of his will to Rome.⁷

One difficulty remains: line 27. The translation of this line is straightforward, but its meaning is disputed. Oliverio takes τὰ περὶ τούτων . . . γράμματα to mean the inscription itself. This is perhaps not entirely impossible, *pace* Wilcken and Bickermann, but it is at least difficult. Alternatively, Wilcken and Bickermann argue that the phrase refers to a papyrus copy of the will. This is more plausible, but περὶ might rather suggest that the γράμματα were not a copy of the will, but—quite possibly together with such a copy—documents relating to or concerning the will. These could be papers concerning the administration of the kingdom, like those presented to Augustus by Herod's aspiring heir, Archelaus. We may compare the documents left by Augustus himself in addition to his will. These consisted, we are told, of four books: the first contained detailed funeral instructions; the second, his *res gestae*; the third, details of the military and administrative affairs of the Empire and the fourth, injunctions to his heir, Tiberius, and to the People. These books of Augustus give us some idea of the possible scope of Physcon's γράμματα. If Physcon did leave detailed instructions of this nature, those who have been disturbed by the sketchiness of the disposition of his will would be satisfied.⁸

⁴Wilcken (1932) 317–36. Bickermann (1932) 424–30 and, esp. on the perfects, 425, after Wilcken 327.

⁵Piganiol (1933) 412–14 is particularly valuable on this point.

⁶As seen by Oliverio (1932) 467 and Wenger (1936) 548. In fact, these two perfects are no more difficult than the third (line 16) or the other uses of the past tense in this document.

⁷Caesar *BC* iii, 108.

⁸Of course, the τούτων of this phrase picks up the τούτων of line 24, which evidently refers to the dispositions of the will: note too τάδε (line 2). For Herod's documents, Jos. *BJ* ii, 24; *AJ* xvii, 228, and for Augustus', Dio lvi, 33. 1–6. On the sketchiness of the will, Bickermann (1932) 426–7.

Since there seems no reason to doubt that the text of the inscription is that of the will itself and that this will was published in 155 B.C., we may proceed to examine the contents of the will on that basis.

In lines 6–11, Physcon refers allusively to a plot designed to take his kingdom and his life, while at lines 19–20 he envisages the possibility of attacks upon his kingdom after his death. The stated purpose of the will is to anticipate the success of this plot by leaving the kingdom to the Romans in the event of Physcon's dying without successors (lines 11–16). All are agreed that the plot referred to is the plot of his brother, Ptolemy VI Philometor. This seems all but certain, for in the very next year, 154, Physcon went before the Senate to accuse Philometor of launching a murderous plot against him: according to Polybius, he even exhibited the scars of the wounds he had suffered. The affair was but another episode in the standing quarrel between the two brothers.⁹ Today it seems always to be assumed that such a plot existed and that Physcon really had such scars to display. It has been thought that Physcon's will was inspired by an actual assassination attempt. But it should be noted that while this plot may very well have existed—and we shall proceed on this assumption—it is also possible that it did not.¹⁰

Discussion of the plot is usually limited to Philometor. We may look further, most obviously to Philometor's sister-wife, Cleopatra II. Her involvement would help to explain Physcon's reference to 'plotters' in the plural, supposing the plural to be more than simple rhetoric. There is also the population of Cyrenaica, for we know that Physcon's rule was somewhat insecure within his very kingdom. While Physcon was absent, consequent upon his journey to Rome in 163 B.C. in a bid to gain Cyprus from his brother, the city of Cyrene revolted against him. Moreover, the revolt was supported by the other cities of the Pentapolis and by Ptolemy Sympetesis, the Egyptian whom Physcon had left in authority in the kingdom upon his departure for Rome. At least some native Libyans also took part (Pol. xxxi, 18. 6–16). This uprising, evidently on a large scale and perhaps encouraged by Philometor, must be an indication of serious instability inside Physcon's kingdom only a few years before the will was made. Therefore, the 'plotters' may very well have included forces within the kingdom as well as forces without. In addition, the borders of Cyrenaica were vulnerable to native incursions: it may also be these that Physcon envisages at lines 19–20.

Some have found the interval between the making of the will in March 155 B.C. and his appearance in the Senate in 154 rather too long. The previous observations suggest a possible reason for delay. Time may have been needed to secure the kingdom in his absence. Of course, he could have sent envoys in his place, but he seems to have preferred a dramatic personal appearance.¹¹

⁹Physcon in the Senate, Pol. xxxiii, 11. 1–3. Accounts of the relations between Physcon and Philometor abound; the fullest remains Bouché-Leclercq (1904) 1–54, to be supplemented by Will (1967) *passim*.

¹⁰The notion that the will was inspired by an assassination attempt is very widespread: Piganiol (1933) 411; Roussel (1932) 288; Arangio-Ruiz (1936) 483; Guizzi (1962) 197; Applebaum (1979) 62–3. Philometor's guilt was not presumed before the discovery of the inscription: see Bouché-Leclercq (1904) 42 and Roussel (1932) 289, who takes the inscription to prove his guilt.

¹¹On the interval, Walbank (1979) 554. For another explanation, Scullard (1973) 326 n. 1.

The extent of the kingdom bequeathed is not entirely clear. Since Oliverio, scholars have pressed καθήκουσαν (line 14), taking it to be a covert inclusion of Cyprus in the bequest: Physcon had long claimed the island for himself.¹² This interpretation is plausible enough, but one may wonder why Physcon is not more explicit. Of course, he is similarly allusive as to the identity of the plotters but, as we have seen, these may not have been readily identifiable or definable.

The presence of Jupiter Capitolinus among the witnesses to the will should not be overlooked. The god was central to the relationship between Rome and king. To this extent the presence of the god in Physcon's will is a re-affirmation of its recurrent theme: the friendship and alliance obtaining between Physcon and Rome. This theme of the will is to be the theme of our whole discussion of royal wills.¹³

At this point we must pause to consider the juridical aspect of royal wills bequeathing kingdoms to Rome, for the will of Physcon has been at the centre of numerous controversies concerning points of law. For the present discussion the key issue in this vast literature concerns the capacity or incapacity of the *populus Romanus* to receive inheritances under Roman law. This question has been much debated but it now seems generally agreed that the wills of Hellenistic kings are essentially outside the framework of Roman law and cannot be used as indications of normal Roman legal practice.¹⁴

The gulf between Hellenistic law and Roman law has been underlined by Liebmann-Frankfort, who points out that Hellenistic law did not contain the essentially Roman concept of *hereditas*. She proceeds to argue that kings who bequeathed their kingdoms to Rome did not technically institute the *populus Romanus* as their *heres*, as Roman law required. As to the other wills we cannot be sure, but this is certainly true for Physcon. Not only does Physcon fail to institute an *heres*, but he also fails to name the *populus Romanus* as such, preferring simply 'the Romans' (line 14).

However, some of our literary authorities use the terminology of *hereditas* when describing these wills, terminology which, as Liebmann-Frankfort observes, is strictly inappropriate. In order to account for this, she divides the sources into two groups: an earlier group and a later group. The later group, she holds, uses the terminology of *hereditas*, while the earlier group does not. Thence she proceeds to argue that the later group were led to use this inappropriate terminology by Augustan propaganda designed to cushion Augustus' measures on inheritance.¹⁵

¹²This interpretation has held the field since Oliverio (1932) 51; cf. Roussel (1932) 288; Tod (1932) 49; De Sanctis (1932) 64. Physcon's use of παρακατατίθεμαι (line 17) has been similarly pressed: see especially Schubart (1932) 1077–84 and, *contra* Schubart, Piganiol (1933) 415–18 and Arangio-Ruiz (1936) 486–7.

¹³On Jupiter Capitolinus here, see Oliverio (1932) 59–60 and Wilcken (1932) 325. It is possible that the copy sent to Rome was housed in his temple there, though Auletes' will was destined for the *aerarium* (Caes. *BC* iii, 108). The role of the god in the wider relationship between king and Rome will be treated extensively elsewhere.

¹⁴For these debates, see Guizzi (1962) 169–205 and the literature he cites. For the present view, see Voci (1967) 416 and Badian (1967) 184–5. On the concept of *hereditas*, see Watson (1971) esp. 1–7; cf. 32 on these Hellenistic wills. though Watson oddly retains the notion that these kings did institute the *p.R.* as *heres*, despite the literature he cites with apparent approval.

¹⁵Liebmann-Frankfort (1966), accepted by Watson (1971) 32 and Cimma (1976) 206, n. 45.

These arguments have found favour, but they cannot stand. First, these groups of earlier and later sources are not distinct groups at all.¹⁶ Further, a leading member of the 'earlier group', Cicero, patently uses the terminology of *hereditas*.¹⁷ This is the foundation of Liebmann-Frankfort's case: once it is removed her whole argument collapses. But an important point remains: our literary sources do indeed sometimes use terminology which seems strictly inappropriate to these wills. But this requires no very complex explanation. Just as Physcon and the other kings seem to have followed Hellenistic legal norms in drawing up their wills, so our Roman literary authorities have a tendency to use the terminology of Roman legal practice when describing these same wills: each culture applies its own particular conceptual framework to the same document. What is more, the testimony of Cicero suggests that not only literary sources, but also the Roman government of which Cicero was a part, interpreted these Hellenistic wills according to Roman legal practice.¹⁸

Physcon's will was never executed because, before he died in 116 B.C., he had had sons and heirs. The earliest known will under which Rome actually received a kingdom is that of Attalus III of Pergamum, who died in autumn 134 B.C., apparently of natural causes.¹⁹

The authenticity of Attalus' will is now generally accepted. It was once doubted on account of a fragment of Sallust's *Histories* which purports to be a letter from Mithridates VI of Pontus to the king of Parthia. In this fragment, Mithridates is made to claim that the will was a Roman invention. We should not suppose this to be the view of Sallust, as is sometimes stated; rather Sallust, rightly or wrongly, gives it as the statement of Mithridates to the Parthian king. Mithridates' supposed claim cannot stand; it runs against the bulk of our evidence, including a contemporary Pergamene inscription which mentions a will of Attalus requiring Roman ratification.²⁰

¹⁶Her 'earlier' group includes Livy, Valerius Maximus, Velleius Paterculus, Pliny the Elder, Tacitus, Appian and Arrian. Further, while Liv. *Per.* 59 falls into this 'earlier' group, Liv. *Per.* 58, 70 and 93 fall into the 'later' group.

¹⁷See Cic. *De Leg. Agr.* i, 1; ii, 41; 44. Note too the fragments of his *De Rege Alexandrino*. See also Watson (1971) 32 with note 14 above.

¹⁸See previous note for the references.

¹⁹On the date of Attalus' death, Sherwin-White (1977a) 68 n. 40, against the orthodox date of 133 B.C.; cf. Hopp (1977) 124, to be read with Badian (1980).

²⁰Sall. *Hist.* iv, fg. 69. 8, discussed by Raditsa (1969-70), who assumes that the letter was composed by Mithridates, rather than Sallust: this is at best unlikely. Préaux (1978) 101 thinks that Sallust contested the authenticity of Attalus' will; cf. the similar remarks of Liebmann-Frankfort (1966) 88-9. Africa (1961) 111 n. 1 is of the opinion that there may be something in the charge of forgery. Forgery, particularly of wills, is always an easy accusation: see Calhoun (1914) for its use in the courts of Classical Athens.

Hor. *Od.* ii, 18. 6 with its attendant scholion provides some scant support for the accusation in this case. But see Nisbet and Hubbard (1978) 295, who point out that the scholiast has misunderstood Horace's *ignotus heres*. Support for the accusation therefore evaporates. Further, Vogt (1974) 96-7, followed by Hopp (1977) 126, n. 22, is mistaken in identifying the *heres* as Aristonicus: see Nisbet and Hubbard loc. cit.: in fact it is the *populus Romanus* or an individual member of it. The inscription is *OGIS* 338 = *IvPerg.* 249.

Although we know very much less about the contents of this will than that of Physcon, we know more than is known in the other cases in this category. The aforementioned Pergamene inscription shows that the will enjoined that the city of Pergamum should be free. The same injunction seems to have applied to the other cities of the kingdom.²¹ Florus seems to have preserved part of the will: 'populus Romanus bonorum meorum heres esto. In bonis regiis haec fuerunt.' However, though often accepted, the authenticity of this supposed extract is at least dubious. The formula used here approximates to the standard formula for a will under Roman law. Moreover, the extract is in Latin. But one might expect Attalus' will, like that of Physcon, to be in Greek and to conform to Hellenistic legal norms. It may well be that Florus' extract is a late and rather facile invention or, alternatively, the product of the propaganda that surrounded the Gracchi and their history: at least, it is unsafe to build anything upon it.²²

Attalus was a young man to make such a will, but he had good reason to anticipate an early death. His health was uncertain, but probably more important was the fear of assassination. The reign of Attalus III is marked by difficulties within the kingdom. These seem to have been of a political, rather than a socio-economic, nature: the problems of power-politics within the kingdom's elite. It seems highly likely that the king's famous seclusion and executions are a function of these very difficulties and that the revolt of Aristonicus is a further manifestation of them. In fact, the scenario bears a certain resemblance to that in which Physcon's will has been set.²³

However, unlike Physcon, Attalus seems not to have sent a copy of his will to Rome in advance of his death. Plutarch states that upon Attalus' death Eudemus of Pergamum brought the will with him to Rome. As is well-known, the will immediately became part of the turmoil surrounding the legislative activity of Tiberius Gracchus. That does not mean, however, that there was any very special connection between Gracchus and the king.²⁴

Gracchus sought to deal with the bequest through the Assembly. His first concern was with the royal treasure which could be swiftly converted into hard cash; we know that at least some royal valuables were sold at public auction in

²¹Hopp (1977) 127: *pace* Hopp, Liv. *Per.* 59 must constitute some support, while Plut. *TG* 14. 2 is of only marginal relevance. See further Harris (1979) 148 n. 2.

²²Florus i, 35. 2, accepted by Hopp (1977) 128 with the majority. The standard form of *institutio* was simply 'Titius heres esto': Gaius *Inst.* ii, 117 with Kaser (1971) 687. Sen. *Contr.* ii, 7. 7 is usually cited to support Florus' quotation, most recently by Hopp (1977) 128 n. 31. This passage has no direct bearing on Attalus' will whatsoever, though it contains a formula similar to that in Florus' quotation. The mis-use of the passage goes back at least to Cardinali (1910) 275.

²³On Attalus' youth, Sherwin-White (1977a) 66. On his reign and health, Hansen (1971) 142–50; Hopp (1977) 107–20. Two detailed points should be noted. First, the story of Daphidas need not be dated to the reign of Attalus III: Braund (1982). Second, there is no support in the sources for the view that Stratonice and Berenice died at roughly the same time: Hopp's view that their deaths constituted a major turning-point in the reign must therefore be qualified: note too the comments of Badian (1980) 202.

Carrata Thomes (1968) has made out the fullest case for socio-economic difficulties in the kingdom. But see Hopp (1977) 135.

²⁴Plut. *TG* 14. On Attalus and Gracchus, see Harris (1979) 149, esp. n. 2.

Rome.²⁵ As to the kingdom itself, Gracchus is said to have stressed the point that to decide upon its fate was the business not of the Senate but of the Assembly: he would therefore put the matter to the People. Many have thought that by interfering in Attalus' bequest, particularly in the matter of the fate of the kingdom, Gracchus was doing something very different from his other legislation which was confined to domestic matters. Thus, Badian observes: 'Henceforth he could no longer claim to be acting within the constitution. Foreign affairs, as well as finance, had always been left to the Senate to deal with.'²⁶ There is certainly very much to be said for this view, but scholars seem to have lost sight of an essential connection between Gracchus' interest in the will of Attalus and his other legislative activity, a connection which serves to underline an important detail in royal wills involving republican Rome. Attalus' will, if it did not explicitly name the *populus Romanus* as his heir, will have named 'the Romans', like Physcon's: to the Roman mind, this could only mean the *populus Romanus*. Gracchus' claim that to decide upon the fate of the kingdom was the business of the Assembly, of the *populus Romanus*, immediately becomes more intelligible. Attalus' bequest not only entailed valuable and timely funds for Gracchus, but also—although in one sense most certainly a new and dangerous departure—raised an issue of central importance for him: the power of the *populus Romanus* to decide upon matters of state, especially where, for the first time, it was named heir to a dead king. To this extent, at least, Gracchus' involvement in Attalus' bequest is quite consonant with his other legislative activity.

When Physcon's son, Ptolemy Apion, died in 96 B.C., apparently childless, he left a will in which he bequeathed his kingdom, Cyrenaica, to the Romans. Beyond that simple fact we know nothing of the contents of his will.²⁷ However, it is still claimed that we know Apion to have stipulated in his will that the cities of his kingdom be granted freedom. This is an error which Oost has traced back to a misreading of Liv. *Per.* 70, where it is stated, not that Apion made the cities free, as Luzzatto read it, but that the Senate did so. That Apion made such a stipulation is therefore only an unsupported hypothesis.²⁸

Having declared the cities free, Rome seems to have taken no further action until 75 B.C., when the decision was taken to annex.²⁹ It now seems generally agreed that annexation was brought about by a number of factors, most importantly severe

²⁵Why Gracchus wanted the money is not agreed. See Stockton (1979) 68 with n. 26 and Bernstein (1978) 207 and the literature they cite. Badian (1972) 713 n. 131 is probably correct to argue that no firm decision can be reached.

²⁶Badian (1972) 713. Stockton (1979) 68 takes a similar view. Harris (1979) 148 argues that Gracchus wanted, unlike the Senate, to tax the cities. This is not excluded by the present argument.

²⁷On Apion's will and its aftermath, see Oost (1963), citing sources and earlier bibliography. Also important are: Reynolds (1962); Badian (1965) 119–21; Badian (1968a) 30, 35–6; Gasperini (1967); Perl (1970); Bagnall (1976); Harris (1979) 154–5, 267; Applebaum (1979) 62–8.

²⁸Oost (1963) 22 n. 6, ignored by Will (1967) 371 and Bagnall (1972) 364.

²⁹On the date of annexation, Harris (1979) 267. It is regularly held that Rome took over Apion's personal property, including the royal lands, immediately after 96 B.C.: most recently, Applebaum (1979) 63. Further, the silphium said to have been brought to Rome in 93 B.C. (Plin. *NH* xix, 40) cannot be assumed to be tribute: see Badian (1965) 119, esp. n. 65 and (1968a) 30 with 100 n. 2.

shortage of grain and money at Rome and the need to suppress piracy. The individual influence of Lucullus (*cos.* 74 B.C.) has been advanced as a further stimulus.³⁰ Much less clear is the reason for Rome's failure to annex in 96 B.C.³¹

Our ignorance of the contents of Apion's will is compounded by our lack of detailed knowledge of his reign. We do know that the years following his death were greatly disturbed by piracy, the rise and fall of tyrants, hostilities between Greek and Jew and, quite possibly, Libyan incursions.³² These troubles need have no direct bearing on the situation in the kingdom during Apion's reign, but they at least serve to highlight tensions within his realm.

More directly relevant is the apparent contradiction between the evidence of Justin and an inscription dated probably to 109/8 B.C.³³ According to Justin, Apion received Cyrenaica by his father's last will in 116 B.C., but the inscription shows Apion's half-brother, Soter II, ruling in Cyrenaica in 109/8 B.C. Caution is in order, for the date of the inscription and Justin's reliability are open to question. But if both are taken to be correct, it becomes likely that Apion and Soter II had clashed over the possession of Cyrenaica: such a clash would be entirely in accord with this period of dynastic struggles among the Ptolemies, from the death of Physcon in 116 B.C. to the accession of Auletes in 80 B.C. The possibility of such a dynastic struggle combined with the inferences that may be drawn from the situation in Cyrenaica after Apion's death, unsafe as they are, make it quite possible that Apion made his will in the context of a troubled reign, as did Physcon and Attalus.³⁴

Next, the will of Ptolemy Alexander. The major problem here is that of attribution. It was long orthodox to attribute this will to Ptolemy XI Alexander II. But in 1967 Badian published an article in which he argued that the will was not to be attributed to Alexander II, but to his father, Ptolemy X Alexander I. Badian's arguments have proved extremely successful, establishing a new orthodoxy. A leading scholar has recently observed: 'The arguments in favour of thinking that it was Alexander I, not Alexander II, who was responsible for this bequest now seem decisive.'³⁵

However, this new orthodoxy is not without its problems. If Alexander I was indeed the testator, he stands as a notable exception among the kings who bequeathed their kingdoms to Rome, because, in all probability, he would be the only such king to have had an heir at the time of drafting his will.³⁶ Further, as Badian observes, Cicero makes no attempt to draw any distinction between the two

³⁰See Oost and Badian *loc. cit.*

³¹On the delay, Harris (1979) 154–5.

³²On the first two factors, see Oost (1963). On the latter, see Moretti (1976). Cf. the involvement of Libyans in the story of Aretaphila: Plut. *Mor.* 257 a–b. Note also Lloyd (n.d.) 234–6.

³³Justin xxxix, 5. 2 and *SEG* IX. 5 with Bagnall (1972).

³⁴On these struggles, see Olshausen (1963).

³⁵Badian (1967). The quotation is from Harris (1979) 155. To my knowledge the only scholar to reject Badian's arguments is Nicolet (1978) 832, who enigmatically observes that Badian's view raises more problems than it solves. Cimma (1976) 240–1 is simply in error: see Braund (1980b) and note that Alexander's father was Alexander I, not Soter II, as Cimma seems to think.

³⁶The importance of the testator's childlessness is discussed below.

Alexanders, father and son. This is no doubt partly because, as Cicero himself says, the story of the will was well-known in Rome. But Badian takes this failure as an indication that the testator was Alexander I on the grounds that he had reigned longer than his son, Alexander II. However, length of reign is not everything. Cicero is addressing a Roman audience at Rome. To such an audience Alexander II was by no means the shadowy figure that his 19-day reign in Alexandria might suggest. He probably came to Rome with Sulla in 83 B.C. How much time he spent there in the course of the next three years is not known, but he may have remained there for the whole three years, for, according to Porphyry, he was in Rome at the time of his appointment by Sulla in 80 B.C. By contrast, his father, Alexander I, is not known even to have visited Rome. Therefore, for all his short reign, Alexander II may well have been better known to a Roman audience than was his father. Moreover, even if Alexander I was still remembered in 63 B.C. when Cicero was speaking, an unqualified reference to a Ptolemy Alexander would more naturally refer to the most recent king of that name, Alexander II. Therefore, the fact that Cicero draws no distinction between the two Alexanders, far from being an indication that the will was that of Alexander I, may be an indication to the contrary, in favour of Alexander II.³⁷

Alexander II was decreed king of Egypt by Sulla in 80 B.C., apparently with the agreement of its queen, Berenice III, and his subjects-to-be. But if, as Badian argues, Alexander I had bequeathed the kingdom to Rome in 88/7 B.C., Sulla's decree would have cancelled the bequest. After that decree the kingdom was for Alexander II to bequeath. On this argument, the will in question can only be that of Alexander II. If supporters of the annexation of Egypt were resurrecting an old will of Alexander I, opponents of the plan would have a relatively strong argument against the use of the old will, on the grounds that the bequest had already been declined by Sulla and a successor appointed. Yet nowhere does this argument appear in our sources: not even where Cicero relates the arguments of these opponents.³⁸

We must now turn to consider the arguments against the will being that of Alexander II. The crucial passage is Cic. *De Leg. Agr.* ii, 41:

‘video qui testamentum factum esse confirmet. auctoritatem senatus exstare hereditatis aditae sentio, tum quando Alexandro mortuo legatos Tyrum misimus, qui ab illo pecuniam depositam nostris recuperarent. haec L. Philippum saepe in senatu confirmasse memoria teneo.’

It may be allowed Badian that *auctoritas* is here used in a technical sense to mean a vetoed decree of the Senate. But the contents of the decree are not so easily agreed. Badian holds that the decree ordered the despatch of envoys to Tyre and that, despite the veto, these envoys were duly despatched. But this is not quite what

³⁷Cic. *De Leg. Agr.* ii, 41–4; i, 1. Badian (1967) 182–3. That Alexander II came to Rome in 83 B.C. is an inference from App. *BC* i, 102. That he was there at the time of his appointment in 80 B.C. is attested by Porphyry *FGH* 260 F. 2. 11. Note too that in the fragments of Cicero's *De Rege Alexandrino*, which was closely concerned with the will, the only Alexander mentioned seems to be Alexander II.

³⁸For Sulla's decree, App. *BC* i, 102. Arguments against the will and its acceptance, Cic. *De Leg. Agr.* ii, 42.

Cicero says. Rather he seems to be referring to a vetoed decree in which it was stated that the *hereditas* had been entered into (*adita*) at the time when (*tum quando*) envoys were sent to Tyre. In that case, the decree did not order the despatch of envoys, but looked back to the time when they were despatched and held that through their mission the *hereditas* had been *adita*.³⁹

What may seem to be a quibble is in fact crucial. Badian's case rests largely upon the improbability of a decree being vetoed and becoming an *auctoritas* in the immediate aftermath of Alexander II's death: 80/79 B.C., the last years of Sulla. But if the present reading is accepted, we have no reason to suppose that the *auctoritas* comes from these years.⁴⁰

An alternative date must be found. Cicero says that he remembers that Philippus often cited the *auctoritas* in the Senate.⁴¹ Cicero returned from his quaestorship in Sicily to take his seat in the Senate in 74 B.C. For Cicero to hear him Philippus must have mentioned it after that year. The date of Philippus' death is not known with any precision: it is usually placed in the late seventies, because we then cease to hear of him. At that time Philippus would have been approaching 70 years of age. If he lived on into the sixties B.C.—and this possibility cannot be excluded—he was evidently dead by the time of Cicero's speech in 63 B.C.⁴²

It has been inferred from the fact that Cicero cites Philippus as his authority for the existence of an *auctoritas* that that *auctoritas* was made in the years before 74 B.C., since after that year Cicero was in the Senate to vouch for its existence himself. According to this inference, a veto must be posited in the mid-seventies if we are to retain Alexander II as testator. Such a veto, though certainly difficult, is not as impossible as has been suggested, for it is not really known how far Sulla's legislation affected the veto; moreover, it is clear that the veto was used as early as 75 B.C., albeit with dubious legality.⁴³ But it must be stressed that the basic inference is itself unsafe, for it cannot be assumed that Cicero cited Philippus simply because he was not present himself when the *auctoritas* was made: it is at least as likely that Cicero chose to cite Philippus because Philippus was particularly interested in the

³⁹Badian (1967), esp. 181. The reading here advanced is nothing new: it is entirely in line with the Loeb translation.

⁴⁰*Contra* Badian, it is not even necessary to suppose that envoys were sent immediately the will became known, though this seems likely enough. Nor need we suppose with Badian that Sulla would have approved the annexation of Egypt: on his view, Sulla could have attempted this in 80 B.C., but did not.

⁴¹Cic. *De Leg. Agr.* ii, 41. It is just possible that Cicero's *haec* refers not to the *auctoritas* but only to the argument that the mission of the envoys to Tyre constituted *aditio*. If so, the only *terminus ante quem* for the date of the *auctoritas* is 63 B.C., when Cicero was speaking.

⁴²On Philippus, see Badian (1967) 190–2. *Pace* Badian, there is no reason to suppose that Cicero cited Philippus' authority because he was one of the few men still living who were prominent in 88/7 B.C.

⁴³On the veto at this time, see Badian (1967) 181–2, esp. n. 14 and compare Gruen (1974) 23 n. 47. We are told that Verres prosecuted the tribune Opimius for using his veto *contra legem Cornelianam* in 75 B.C. (Cic. *In Verr.* ii, 1. 155). This seems to contradict Caesar's statement that Sulla placed no restriction on the tribunician veto (*BC* i, 5 and 7). But the nature of such restrictions is unclear: we are not told how Opimius had transgressed the law. The heated Cic. *De Leg.* iii, 22 says nothing explicitly of the veto, though it does allude to a general curbing of tribunician power under Sulla.

matter (Cicero's *saepe* should be noted, though not pressed) and/or because Philippus' seniority made him a powerful authority upon which to call. It is therefore entirely possible that the veto was used not before but after 74 B.C. and previous to Philippus' death.

There now remains no obstacle to the view that Alexander II was the testator, while Badian's view, that Alexander I made the will, involves significant difficulties on the present argument. We shall therefore proceed on the view that the testator was indeed Alexander II. Shortly after the arrival of his will, or news of it, at Rome, envoys were sent to collect money he had deposited at Tyre. A decree stating that this mission amounted to *aditio* was promulgated at some time thereafter, probably in the middle to late seventies, and was promptly vetoed. Philippus was in the habit of citing this vetoed decree in the period between 74 and his death, probably in the subsequent decade.⁴⁴

The details of Alexander's short reign are known only in outline. He soon fell out with his queen, Berenice, and murdered her: apparently incensed by her murder, the Alexandrian mob killed him. The reason for his break with Berenice is not known but we may speculate. Appian states that the mob killed Alexander because he had behaved in an offensive manner towards them, relying on the support of Sulla (*BC* i, 102). This suggests that the grievance against the king was rather larger than the single act of Berenice's murder. Appian also states that Sulla had appointed Alexander as king in the expectation that he would thereby enrich himself (*ibid.*). It seems that Sulla expected Alexander to pay for his support. If Alexander had attempted to fulfil this expectation by using the wealth of the kingdom to pay off Sulla, perhaps increasing the level of taxation to raise a sufficient sum, the swift

⁴⁴Badian (1967) 185–9 develops an elaborate hypothesis around his view that it was Alexander I who deposited funds at Tyre. However, it raises a number of difficulties. Alexander is taken to have borrowed from Roman financiers and to have made his will as collateral. But a will leaving Egypt to the Roman People would hardly be good collateral for private loans, as events were to show. Rather, as in the case of Rabirius and Auletes, money would have been loaned in the expectation of success in gaining the throne and of repayment from the wealth of the kingdom thus acquired. In any case, there is no evidence that Alexander I borrowed anything from Roman financiers. Further, Alexander can hardly both have deposited the money at Tyre and used it to buy Tyrian mercenaries as Badian's view entails. Moreover, Badian's attempt to connect his hypothesis with Lucullus' mission for Sulla does not convince. Quite apart from the absence of any mention of the deposit in our sources for this mission, it seems clear that Lucullus did not race Marian legates to Tyre, for, if he had done so, he might be expected to have made straight there. In fact, he went there after stopping at Cyrene, Egypt and Cyprus *en route*. Furthermore, Soter II's cautious respect for Lucullus at this time need not suggest the existence of any will of Alexander I. An important Roman visitor could expect courteous treatment: Soter's careful courtesy requires no further explanation, though it is worth remembering that a civil war of uncertain result was then in progress and can only have advised caution on Soter's part.

Why the money was deposited at Tyre remains a minor mystery, whichever Alexander one supposes to have deposited it there. The most obvious explanation is perhaps the best: that the money was a nest-egg in case the king were expelled. We may compare the sum deposited at Priene by Orophernes of Cappadocia: *Pol.* xxxiii, 6; *Diod.* xxxi, 32. Cf. Hopp (1977) 65–7. Note too Cleopatra III's deposit on Cos, with which Alexander II was intimately connected: Bouché-Leclercq (1904) 117–18. We do not know when the money was deposited at Tyre, but, if it was deposited in Alexander II's short reign, it may well have been a precaution necessitated by the king's difficulties at Alexandria: the very forces that encouraged the making of a will.

and strong opposition to him becomes more comprehensible: opposition from Berenice leading to her murder and opposition from the mob brought to a head by that murder. In the following reign, Auletes faced a similar need for money, tried these tactics to obtain it and had to flee for his life to avoid the same fate as Alexander.⁴⁵ In a fast deteriorating situation such as this, Alexander might well decide to make a will and deposit a cache of money at Tyre in case of his removal or flight.⁴⁶ It seems most unlikely that the will was made and kept at Rome or that a copy of it was sent to Rome, for, if this had been done, the subsequent disputes over its existence would be readily settled by the production of the document. It must be stressed that these disputes concerned its very existence, not whether a document produced was a real will or a forgery.⁴⁷ That the will was made and did exist is now generally assumed, but we cannot be sure. It seems that no document was produced and Cicero makes it clear that the existence of the will was challenged in his day. Given this uncertainty, we should not build very much on the case of this particular will.

As a tail-piece to the case of Alexander we must consider the annexation of Cyprus. This annexation has been viewed by leading scholars as 'barefaced robbery' and as 'the most shameful act of Roman imperialism apart from the Gallic War'.⁴⁸ There is some justice in these remarks, arising as they do from the view that the main stimulus to annexation was Rome's and Clodius' shortage of money.⁴⁹ But at the same time, Rome's legal justification for annexation was strong enough.⁵⁰ Cyprus was included in the will of Ptolemy Alexander—if he indeed made one—for it was part of his kingdom. For some twenty years the question of the annexation of Egypt had been debated at Rome: though nowhere explicitly mentioned in this context, the fate of Cyprus as part of the same inheritance was closely connected with that of Egypt, overshadowed by the greater prize. In 59 B.C., Auletes temporarily settled the fate of Egypt by obtaining Roman recognition at considerable expense. Auletes' success may well have brought the question of the annexation of Cyprus to a head; it may be no coincidence that, after so many years of inaction, the decision to annex Cyprus was taken in the very next year after Auletes was recognised. Cato was despatched to remove Auletes' brother from the throne of Cyprus and to realise his assets: he returned to Rome with 7,000 t. for the treasury. The controversy surrounding Alexander's will was thus finally settled.⁵¹

⁴⁵See Bloedow (1963): note especially Dio xxxix, 12.

⁴⁶See above note 44 *ad fin.*

⁴⁷On the deposition of wills at Rome see below on Auletes. For the suggestion, see Bouché-Leclercq (1904) 121; Olshausen (1963) 29. Even that any document was brought before the Senate (so Badian (1967) 187) cannot be assumed.

⁴⁸The standard discussion remains Oost (1955), with important advances by Badian (1965). The quotations come respectively from Oost (1955) 101 and Badian (1968a) 77.

⁴⁹On the financial aspect, Oost (1955) 99, supported by Badian (1965) 112 and 117. The removal of Cato from Rome was immaterial to the original decision to annex: Badian (1965) 116–17 *contra* Oost (1955) 100. On the possible relevance of piracy, Oost (1955) 100 with notes 21 and 22. On Cyprus and piracy, see also Hassall, Crawford, Reynolds (1974).

⁵⁰Oost regards the will merely as an 'excuse': *ibid.* It is no doubt as a result of this sort of estimate that Cyprus is usually omitted from discussions of kingdoms left to Rome in royal wills.

⁵¹On Auletes, see Shatzman (1971); Bloedow (1963).

In 74 B.C., the year after Rome had decided to annex Cyrenaica, Nicomedes IV of Bithynia died. He left a will in which he bequeathed his kingdom to the Romans. We know nothing more of its contents than this.⁵² As in the case of Attalus III and Alexander II, there is ancient testimony that Nicomedes made no will in favour of Rome. A Ciceronian scholiast states that Rome inherited Bithynia because Nicomedes died intestate. In addition, Sallust's 'Letter of Mithridates' asserts that Rome should not have seized Bithynia upon the king's death because he had left a son. However, these two sources can be allowed no credence in the face of the bulk of our evidence from more reliable authorities: the authenticity of the will is secure enough.⁵³

But it is true that, *contra* Appian, Nicomedes left a child: a daughter named Nysa whom Caesar was later to champion in the Senate, perhaps in 60 B.C.⁵⁴ Moreover, upon Nicomedes' death, a man claiming to be his son appeared before the Senate to claim the kingdom as his inheritance: this is presumably the individual to whom Sallust makes Mithridates refer. But the Senate rejected his claim not least because others flocked to Rome from Bithynia to denounce him as an impostor. Instead the Senate decided to annex Bithynia and appointed M. Iuncus, then governor of Asia, to the task.⁵⁵

Rome's decision was taken comparatively swiftly. The factors which precipitated the annexation of Cyrenaica in the previous year must still have been significant. In addition there was Mithridates VI Eupator of Pontus. Since the accession of Nicomedes IV in 93 B.C. he had twice been expelled by Mithridates and subsequently twice restored by Roman arms. Moreover, in the mid-seventies, Mithridates is said to have been negotiating with Sertorius for the cession of Bithynia and Cappadocia. Nicomedes' death might encourage Mithridates to push into Bithynia once more: particularly if Bithynia were allowed to deteriorate as Cyrenaica had been. In fact, Mithridates did just this. Probably in the very next year, 73 B.C., he invaded Bithynia and thus set off the Third Mithridatic War. The Bithynian ambitions of Mithridates may therefore be seen as a major stimulus to prompt Roman action on Nicomedes' will. At the same time, it is very likely that Mithridates was also in Nicomedes' mind when he drafted his will: Mithridates, who had so much wanted Bithynia in its king's lifetime, could hardly be expected to cease to want it after the king's death.⁵⁶

⁵²For sources and discussion, Magie (1950) 1200–1 and Vitucci (1953) 117–19.

⁵³*Schol. Gron.* 316 St.; cf. Sall, *Hist.* iv, fg. 69. 8.

⁵⁴App. *Mithr.* 71 erroneously describes him as childless; cf. below on Sadalas II. His daughter's age is unknown. For Caesar's speech, Suet. *DJ* 49. 3: on the date, Gelzer (1968) 30 n. 1; cf. also Ward (1977) 31. It may well be that the will made some provision for her: cf. below on Prasutagus. Caesar's Bithynian connections are well-known; see Gelzer (1968) esp. 29.

⁵⁵On the pretender, Sall. *Hist.* ii, fg. 71. The mention of a son at Sall. *Hist.* iv, fg. 69. 8 suggests that Mithridates may possibly have supported him; cf. Mithridates' use of Nicomedes' half-brother, Socrates Chrestus: Magie (1950) 207–8, 319–20. On Iuncus, see now Ward (1977). The fact that opponents of the pretender flocked in from Bithynia suggests that the bequest to Rome was not unpopular in some quarters at least: perhaps especially when the pretender was the alternative.

⁵⁶For the narrative, Magie (1950) 207–33, 321–78; cf. Vitucci 107–19. On Mithridates' invasion of Bithynia in 73 B.C., see Liebmann-Frankfort (1969) 213 n. 2. On Mithridates' ambitions down to 88 B.C., see Glew (1977); cf. McGing (1980) and Glew (1981). On the chronology in particular, see Sherwin-White (1977a) and (1977b).

Next, to North Africa. Some scholars have thought that when Bocchus II died in 33 B.C. he left a will in which he bequeathed his kingdom to Rome or Octavian.⁵⁷ Romanelli provides the fullest statement of the view and adduces the only piece of evidence ever advanced in its support: Dio xlix, 43. 7. But he quotes an extract from this passage entirely out of context and thus misunderstands it. The extract quoted is:

... οὐδενὶ τὴν βασιλείαν αὐτοῦ ἔδωκεν, ἀλλ' ἐς τὰ τῶν Ρωμαίων ἔθνη αὐτὴν ἐσέγραψεν.

The subject of this extract is taken to be Bocchus. It is understood to mean that Bocchus passed on his kingdom to no successor, but left it to become a Roman province. But when we see the beginning of the sentence a very different picture emerges. The sentence begins:

τοῦ τε Βόκχου τελευτήσαντος . . .

It can now be seen that the subject of the sentence is not in fact Bocchus who appears in a genitive absolute. Rather, the subject is Octavian, as the broader context of the passage shows: it is for this reason that αὐτοῦ stands unaspirated. With this passage removed the notion that Bocchus II left his kingdom to Rome in a will is reduced to unsupported hypothesis.

II

This is the last case we must consider from the first republican category: we may now turn to consider those royal wills which appointed the *populus Romanus* as guardian of the king's heir(s). Our earliest case of such a will is also the most problematic. A number of ancient sources state that M. Aemilius Lepidus visited Egypt c. 200 B.C. as the *tutor* or guardian of the young Ptolemy V Epiphanes, who had succeeded his father, Ptolemy IV Philopator, in 205 B.C. at the age of 10. According to this tradition, Philopator had left a will naming the *populus Romanus* as *tutor* of Epiphanes: the Senate in turn appointed Lepidus to wield this *tutela* on its behalf. This tradition is problematic largely because Polybius and Livy say nothing of Lepidus' *tutela*, while the sources supporting the tradition are relatively late: Valerius Maximus, Justin and Tacitus, together with a coin minted in 61 B.C.⁵⁸ It

⁵⁷So Romanelli (1959) 161; Lemosse (1964) 280 n. 1; Garnsey (1978) 224; Fentress (1979) 65. Elsewhere Lemosse admits that the will is pure conjecture: Lemosse (1967) 29. So too Alföldi (1979) 69. Lemosse (1967) 29 asserts that Bocchus died without heirs: that is a matter of some doubt: see Romanelli (1959) 161; Gsell (1928) viii, 157, 200.

⁵⁸The literary sources are: Justin xxx, 2. 8; 3. 3–4; xxxi, 1. 1–4; Val. Max. vi, 6. 1; Tac. *Ann.* ii, 67. For the coin, see Crawford (1974) no. 419. 2. No such will is anywhere explicitly attested: it is a deduction from the statement that Philopator had appointed the *p.R.* as Epiphanes' guardian *postremis . . . precibus* (Justin xxxi, 1. 2 with Val. Max. vi. 6. 1). The chronology of Epiphanes' succession is uncertain: see Walbank (1967) 435–7. The details of the diplomacy of 201/200 B.C. are even more so: see Briscoe (1973) 42–7; Balsdon (1954); Walbank (1940) 313–17 for a spectrum of views.

is largely for this reason that the vast majority of scholars have totally rejected the tradition.⁵⁹

Otto has found some favour with a rather more sympathetic approach. He argues that Lepidus was not the *tutor* of Epiphanes, but that of Ptolemy Eupator, the son of Philometor and ruler of Cyprus from 152 B.C. But the view cannot stand. Not only is there a complete lack of evidence for Lepidus being the *tutor* of Eupator, but it must be stressed that the whole tradition, including the coin, points to Lepidus being the *tutor* of a king at Alexandria, not in Cyprus. Moreover, Justin clearly envisages Epiphanes, not Eupator, as the *pupillus*.⁶⁰

The tradition must therefore be assessed in terms of Lepidus' *tutela* of Epiphanes. Despite the weight of scholarly opinion, one hesitates to reject a tradition supported by three apparently independent literary authorities, quite apart from the coin: particularly where these authorities, though later than Polybius, originate in the early Empire and are to that extent at least no worse than Livy. By that time the tradition was evidently well-entrenched. Moreover, the tradition does find a measure of support in Polybius and Livy in that they attest the fact that Lepidus visited Alexandria in the required years: a notable coincidence at least.⁶¹ An alternative to outright rejection may be constructed if we first examine the nature of Lepidus' *tutela*. According to the tradition, Lepidus exercised his *tutela* in Egypt by administering the kingdom for Epiphanes. This is unlikely, since Lepidus is known to have spent no great length of time in Egypt.⁶² But that need not mean that he was not *tutor* at all: we should not suppose that a Roman *tutor* was appointed in order to administer the kingdom of his *pupillus*. We may compare the position of Pompey as *tutor* of Ptolemy XIII and Cleopatra VII and, possibly, that of Caesar as *tutor* of Ptolemy XIV and Cleopatra. In these cases, as we shall see, the administration of the kingdom does not seem to have been the *tutor's* role, though that is not to say that a *tutor* could not be appointed for just this purpose.⁶³

⁵⁹The tradition has been rejected most recently by Huss (1976) 168–70 and Cimma (1976) 158. A lone voice—apart from the credulous Cichorius (1922) 23—in sympathy with the tradition is that of Heinen (1972) 647–50, opposed by Huss *loc. cit.*

Arguments for rejection of the tradition, beyond the silence of Polybius and Livy, are considered below.

⁶⁰Otto (1934) 27–9, followed by Will (1967) 103 and Scullard (1973) 237. But, as Badian has observed, the coin suggests activity in Alexandria: Badian (1958) 110 n. 3. Briscoe (1969) 69 n. 142 characterises Otto's view as 'merely guessing'.

A major stimulus to Otto seems to have been the fact that Val. Max. vi, 6, 1, in recounting the story of Lepidus' *tutela*, awards him the titles he received only later in his career. Similarly, the coin gives him the title of *pontifex maximus*: an office he did not hold until 180 B.C. But this can hardly be pressed and it should be noted that neither Justin nor Tacitus give him such titles. Further, as Crawford observes, coins depicting Lepidus' part in the Second Punic War similarly allude to the pontificate which he did not then hold: Crawford (1974) 444.

⁶¹See Briscoe (1973) 56.

⁶²See Heinen (1972) 649 and, for Lepidus' career, Klebs *R-E* i, (1894) cols. 552–3.

⁶³On Pompey and Auletes, see below. For the appointment of *tutores* against an external threat, compare the will of Nicomedes I of Bithynia, which, it has been suggested, was made for fear of the Seleucids. Nicomedes' heirs' *tutores* can hardly have been intended to administer the kingdom. Nor was Cicero so instructed. On this, Nicomedes' will and administratively active *tutores*, see below.

In fact, the tradition provides a clue as to Lepidus' role:

'legatos Alexandrini ad Romanos misere, orantes ut tutelam pupilli susciperent tuerenturque regnum Aegypti, quod iam Philippum et Antiochum facta inter se pactione divisisse dicebant.'
(Justin xxx 2. 8; cf. 3. 3-4; xxxi 1. 1-4)

The Romans are asked to activate the *tutela* conferred upon them under the will of Philopator in order to protect Egypt against the combined might of Philip and Antiochus. It seems therefore that the Senate appointed Lepidus *tutor* not because Egypt needed an administrator—there is no sign of that—but because it needed protection against external aggression. It was Lepidus who warned Philip off Ptolemaic possessions at Abydos and it was his embassy which was detailed to settle affairs between Antiochus and Ptolemy. These activities would have been entirely appropriate for the *tutor* of the king of Egypt.⁶⁴

The notion, found in the tradition itself, that Lepidus was appointed as an administrator, has been a major stimulus to the wholesale rejection of the tradition. On this point, I have argued, the tradition is in error. But that does not mean that the entire tradition of Lepidus' *tutela* is to be dismissed as myth, particularly since this error can be accounted for. In the early Empire, whence our literary authorities for the tradition come, *tutores* were indeed appointed to administer kingdoms. Therefore sources from that period might well attribute administrative functions to one with the title *tutor*. The coin of 61 B.C. does not help: it depicts Lepidus crowning a king, but there is no reason to suppose this depiction to be an accurate reflection of anything Lepidus actually did.⁶⁵

Obstacles remain to the acceptance of the tradition in this somewhat modified form. The greatest obstacle is the silence of Polybius and Livy. But this is not so serious a problem as some have thought. Livy is known to be particularly unsatisfactory at this point in his narrative, while it has been suggested that Polybius is not much interested in events relating to Egypt at this stage in his narrative, when the Second Macedonian War was brewing. Certainly his record on Ptolemaic wills is doubtful: we have already observed his apparent silence on that of Physcon.⁶⁶ All this apart, it should also be observed that the silence of Polybius and Livy becomes more comprehensible if the present argument is accepted: that Lepidus' appointment as *tutor* did not involve him in any special administrative functions beyond his role as a Roman envoy in 201/200 B.C. That is, Lepidus' title, though honorific and relevant to his mission, had no very tangible impact on the history of these years. If this is right, Lepidus' position may have been of minor importance as far as Polybius and Livy were concerned.

Once the relative unimportance of Lepidus' title is grasped, other objections

⁶⁴On the Abydos conference, Pol. xvi, 34. with Walbank ad loc. On the purpose of the embassy, see Walbank (1967) 533-4.

⁶⁵On imperial *tutores*, see below. Their effect upon the tradition of Lepidus' *tutela* is suggested by Tacitus' comparison of the positions of Lepidus and Trebellenus Rufus (*Ann.* ii, 67). As for the coin, Scullard (1973) 237 n. 3 plausibly suggests that the scene depicted on it is no more than symbolic of Lepidus' relationship with Epiphanes and his successors.

⁶⁶On Livy's weakness and Polybius' lack of interest, see Heinen (1972) 647-8. On Polybius' silence on Physcon's will, see above.

to the tradition are undermined. It has been objected that Lepidus was far too young for such an important position, being about 20 years old.⁶⁷ But in immediate practical terms, it has been argued, the position itself was not so very important. What was important was the mission to the East as a whole: there is no doubt that for all his youth Lepidus was despatched on this mission and played a leading role in it, for it was he who delivered Rome's ultimatum to Philip. It is clear enough that Lepidus was no ordinary young man: he was to become consul twice, censor and *princeps senatus*.⁶⁸ Further objections are marshalled by Huss: that Philopator would not have left Egypt in the hands of Rome; that such an appointment would have sparked a riot in Alexandria; that Philopator would not have appointed Rome as *tutor* while the Second Punic War was still in progress. But the first two objections lose their force once it is allowed that Lepidus' role and that of Rome involved no actual administration; as for the third, by the time of Philopator's death Rome's ascendancy was evident. Nor need we suppose with Huss that the appointment of the *populus Romanus* as *tutor* would have involved intense diplomatic activity between Rome and Egypt in the last years of Philopator's reign. Indeed, we should keep the appointment in perspective and remember that the *populus Romanus* may very well have been only one among a number of such *tutores* appointed under Philopator's will: some 50 years earlier, as we shall see, Nicomedes I of Bithynia appointed as *tutores* of his heirs several peoples of cities and kings.⁶⁹

In short, there is no objection to our acceptance of a somewhat modified form of the tradition, if we estimate the appointment of the *populus Romanus*, and subsequently of Lepidus, in the manner suggested. At least, there now seem insufficient grounds for the outright rejection of the tradition.

Our next case is more secure. At some time before his death in 51 B.C., Ptolemy XII Auletes made a will. He kept a sealed copy of it at Alexandria and sent another to Rome to be placed in the *aerarium*. But, says Caesar, the copy sent to Rome could not be placed there *propter publicas occupationes*: it was therefore left with Pompey.⁷⁰ What Caesar means by this phrase is not entirely clear. The most likely period for the arrival of the will in Rome is the late fifties, after Auletes' restoration through Gabinius in 55 B.C. and before his death in 51 B.C., though the possibility of an earlier date cannot be excluded. Before the will could be installed in the *aerarium* its installation would have to be sanctioned by the Senate. It seems probable therefore that Caesar means that when the will arrived at Rome the Senate was too busy to deal with it. Once it was placed in the hands of Pompey, then pre-eminent at Rome, the impetus for its being placed in the *aerarium* would be reduced if not cancelled. Of course, Pompey was also the particular champion of Auletes at Rome, which in turn accounts for the will being placed with him *faute de mieux*.⁷¹

⁶⁷On Lepidus' youth and a suggested explanation of his part in the embassy, see Walbank (1967) 543.

⁶⁸For his career, see above note 62.

⁶⁹See Huss (1976) 168–70. On Nicomedes I and his will, see below.

⁷⁰Caes. *BC* iii, 108.

⁷¹On the relevance of Pompey's pre-eminence, see Badian (1968b) 259. On Pompey and Auletes, see Seager (1979); Bloedow (1963); Olshausen (1963) *passim*.

In the will, Auletes named his heirs: his elder son and daughter who were to reign jointly in accordance with Ptolemaic practice as Ptolemy XIII and Cleopatra VII. At the same time Auletes appealed to the *populus Romanus* by all the gods and the treaties he had made at Rome that his will be carried out (*haec uti fierent*: Caes. *BC* iii, 108). On this last phrase is based the view that Auletes appointed the *populus Romanus* as his executor and that, therefore, the *populus Romanus* could not be appointed *tutor* of the royal heirs, since—it is claimed—one could not be both executor and *tutor* at the same time under Roman law. But no such prohibition seems to exist in Greek, Ptolemaic or Roman law: indeed the latter does not contain the concept of an executor in our modern sense. Moreover, even if such a prohibition existed, it would constitute no real argument, for the concepts and rules of private law are inapplicable to the will of Auletes.⁷² In any case, in appealing to Rome that his will be carried out, invoking the gods and his treaties with Rome, Auletes was hardly appointing an executor: rather he was asking the Romans to agree to and recognise the accession of his heirs. Auletes, who had struggled for some twenty years to achieve his own recognition at great expense against calls for the annexation of his kingdom at Rome, was very well aware of the importance of recognition.⁷³ There is no reason to suppose, therefore, that Auletes did not appoint the *populus Romanus* as *tutor* to his heirs. What is more, there is evidence that he did just that: Dio states that Caesar read out Auletes' will and that in it Auletes had bestowed the guardianship (ἐπιτροπεία) of his heirs upon the *populus Romanus* (Dio xlii, 35. 4). Indeed, Auletes' appeal that his wishes be carried out with regard to his heirs (Caes. *BC* iii, 108), that they should not be replaced (*Bell. Alex.* 33), may be seen not so much as the bestowal of a separate executory function, but rather as a part of the role of *tutor* entrusted to the *populus Romanus* by Auletes.

As in the case of Philopator's will, the Senate appointed an individual Roman to wield this *tutela* on behalf of the *populus Romanus*. Pompey was the obvious choice, both on account of his strong connection with Auletes and because the appointment of an individual *tutor* seems to have been left until 49 B.C. and a meeting of the Pompeian Senate at Thessalonica.⁷⁴ That Pompey's *tutela* included Cleopatra VII can hardly be doubted.⁷⁵ But despite the appointment Pompey did not immediately visit Egypt. Of course, he had a war to fight, but his failure to do so provides some possible support for the view advanced above in the case of Lepidus: it may well be that a *tutor*, once appointed, was not necessarily expected to visit the kingdom of his ward, still less administer it.

The notion of *tutela* may improve our understanding of developments after Pharsalus. It was then that Pompey did make for Egypt, only to be murdered off its shore. According to Caesar, Ptolemy's advisers later claimed that they arranged the murder because they feared that he would take over the kingdom. This claim is perhaps better appreciated if we remember that Pompey was technically the

⁷²So Heinen (1966) 13–15. Heinen cites Kübler *R-E* VA (1934) col. 1010 as his source, but Kübler mentions no such restriction. On the absence of an executor under Roman law, see Kaser (1971) 693.

⁷³See the works cited in note 71.

⁷⁴Heinen (1966) 18–20, accepted by Badian (1968b) 259.

⁷⁵Heinen (1966) 17.

guardian of Ptolemy (and of the queen with whom he was then at war), the role performed in practice by Ptolemy's principal adviser, Pothinus. Pompey had some claim to assume a significant position in the kingdom, possibly at the expense of Pothinus.⁷⁶

Upon the death of Ptolemy XIII, Caesar appointed the late king's younger brother as Ptolemy XIV to rule jointly with Cleopatra. He is said to have derived his authority to do so from the terms of Auletes' will and his office as dictator and thus agent of the *populus Romanus* named therein: that is, Caesar seems to have claimed the position of *tutor* over his appointees, though he is made to refer to his role as the exercise of ἐπιμελεία (Dio xlii, 35. 4–6). If this is correct, we can discern another level to the relationship between Caesar and Cleopatra: that of guardian and ward respectively.

Next, to Thrace. Dio tells us that on his way back from Asia into Macedonia in 42 B.C., Brutus took control of the land of Sadalas II of Thrace. Sadalas, he explains, had died childless and had bequeathed his land to the Romans (Dio xlvii, 25. 1–2). But Dio's testimony is problematic, for Sadalas seems to have left a son. An inscription survives from Bizye which was set up by a king named Cotys to commemorate his parents named Sadalas and Polemocratia. Further, Appian tells us that a Polemocratia, wife of a Thracian kinglet who had been killed by his enemies, brought her young son to Brutus in 42 B.C. (App. *BC* iv, 75). Linking Appian and the inscription, it seems probable that this Polemocratia was the wife of Sadalas II and that, *contra* Dio, they had a son named Cotys, who was brought to Brutus and later became king of Thrace.⁷⁷

If Dio's account is in error as to Sadalas' childlessness, it is possible that he is also in error as to the existence of a will of Sadalas. That Appian says nothing of such a will may not be significant, for he is particularly concerned with Polemocratia's visit to Brutus and the wealth she brought him, not with the situation in Thrace. But if Sadalas had a son and heir, he is not likely to have left his kingdom to Rome. It is precisely for this reason that the existence of the will is usually denied.⁷⁸ Yet, though Dio might easily be ignorant of Sadalas' son, it is more difficult to suppose him to have invented a will. An entirely hypothetical compromise solution suggests itself. We are told that Sadalas died fighting his enemies and that he left a wife and young son. In this situation the succession was evidently imperilled. It seems possible therefore that Sadalas did indeed make a will as Dio says, but a will appointing Rome as *tutor* of his heir.

III

Of the republican wills, there remains the case of Massinissa of Numidia. In 148

⁷⁶On the claim: Caes. *BC* iii, 104. On Pothinus' position: Caes. *BC* iii, 108.

⁷⁷On all this, Youroukova (1976) 48. *Contra* Youroukova, the young Cotys was rather more than a 'small child': he was a μαιράκιον. Moreover, his absence from events leading up to Philippi is explained not by his extreme youth, but by the fact that, as Appian states, he was at Cyzicus.

⁷⁸Youroukova (1976) 48; Wiesner (1963) 160 does not mention the will, while Sullivan (1979) 192 is non-committal.

B.C. he died in extreme old age.⁷⁹ Shortly before his death he had asked Scipio Aemilianus to visit him in order to discuss the succession. Scipio was then serving in Africa as military tribune in the Third Punic War. Scipio arrived to find the king dead. We are told that before he died Massinissa left instructions that his family was to abide by the decisions made by Scipio on the succession: these instructions were apparently followed.⁸⁰

Of course, Scipio was an obvious choice for Massinissa. His physical proximity apart, he was the adoptive grandson of Scipio Africanus who had installed the king upon Rome's victory at Zama: our sources are entirely explicit as to the relevance of this connection.⁸¹ Moreover, Aemilianus was himself no stranger to Massinissa and his family. He visited Numidia in the course of the Celtiberian war in 151 B.C., sent to fetch elephants. There he very probably met two of Massinissa's principal heirs, Gulussa and Micipsa (App. *Lib.* 70–2), and quite possibly the third, Mastanabal. If Cicero's chronology can be trusted, Scipio visited Massinissa again in 149 B.C.⁸² The very fact that Scipio was chosen for the mission to the king in 151 B.C. is sufficient indication of the connection.

The succession to Massinissa was to take place in the course of a war which was the culmination of half a century of hostility between Carthage and Numidia. Further, interference in the Numidian succession was a known Carthaginian tactic from which Massinissa had himself once suffered.⁸³ The combination of these two facts made it crucial for Massinissa to arrange his succession. This was made particularly difficult by the uncharacteristically poor state of relations between Massinissa and Rome at this time. According to Appian, Massinissa was angry with Rome because, by declaring war on Carthage, she was in his view taking a prize which he had earned: Rome had not even given him prior warning of her invasion of Africa.⁸⁴

The attraction of a Roman adviser and, in the event, a Roman agent, in these difficult times is apparent. He was ostensibly outside the internal rivalries of the Numidian elite and could therefore function as an acceptable arbiter. At the same time he was in no position to usurp the throne for himself. Scipio would be both acceptable in Numidia and influential at Rome.⁸⁵

⁷⁹On his age, Walbank (1979) 676.

⁸⁰App. *Lib.* 105–6; Zon. ix, 27; Liv. *Per.* 50; Pol. xxxvi, 16. 10; Val. Max. v, 2. ext. 4; Eutrop. iv, 11; Oros. iv, 22. 8. Important modern discussions are: Gsell (1928) iii, 363–5; Badian (1958) 137–8; Camps (1960), esp. 231–4; Walsh (1965); Saumagne (1966) 100–4; Fentress (1979) 61; Alföldi (1979) 57.

From the Roman point of view, see especially Astin (1967) and (1978).

⁸¹App. *Lib.* 72; 105; Val. Max. v 2. ext. 4; cf. Cic. *De Rep.* vi, 9–10.

⁸²Cic. *De Rep.* vi, 9. On Cicero's concern for historical accuracy in this work, see Rawson (1972). Saumagne (1966) 101 accepts the story.

⁸³On the tactic and Massinissa, Thompson (1981).

⁸⁴App. *Lib.* 94. Walsh (1965) 155–6 plays down Massinissa's desire for possession of Carthage. On the relations between Rome and Massinissa at this time, see Scullard (1973) 289 and the contrary position of Astin (1967) 273–4. Hostility between Massinissa and Rome need not mean any barrier between the king and the Scipios: observe the role of Scipio Nasica in the debates over the war, in addition to Aemilianus' dealings in Africa.

⁸⁵Scipio's activities in Numidia seem to have been brought before the Senate only after the event: Zon. ix, 27.

How far Scipio was left a free hand in arranging the succession is unclear. Some scholars have assumed the existence of a will of Massinissa, but there is no evidence that he made one.⁸⁶ Livy's epitomator states that Massinissa designated his three principal heirs and left Scipio to divide the kingdom among them. Appian is inexplicit, but seems to bear out this version in that he draws a clear distinction between Massinissa's treatment of his three principal heirs and that accorded to their illegitimate brothers. But Zonaras tells a rather different story: he says that Massinissa, on his death-bed, gave his ring to Micipsa and thus nominated him as his successor, but that he left all other arrangements to Scipio.⁸⁷

Some have followed Zonaras: his testimony has even been used to argue that Scipio arranged the succession in a manner contrary to Massinissa's wishes by dividing the kingdom between the three principal sons, rather than giving Micipsa sole command.⁸⁸ But Zonaras' version is suspect. First, it is later than our other sources. Second, the use of the ring to designate a successor seems suspiciously Roman. Finally, Zonaras mistakes the order of seniority of Massinissa's sons, reversing the positions of Mastanabal and Gulussa. It seems unsafe, therefore, to build upon Zonaras' testimony alone.

Scipio's division was not geographical but functional. According to Appian, Scipio gave each of Massinissa's three principal heirs the royal title and joint control of the kingdom's wealth. In addition Micipsa received Cirta and the royal palace there, Gulussa was made arbiter of peace and war, while Mastanabal was given control of justice (App. *Lib.* 106; cf. Zon. ix, 27). Though all three brothers are said to have received the royal title and important functions, Micipsa had the particular trappings of royalty: Cirta and the royal palace. If Massinissa did indeed designate Micipsa his main heir, as Zonaras states and Appian implies, we need not suppose Scipio to have acted contrary to his wishes in dividing the kingdom: it may well be that Micipsa was made high-king among the three brothers, whether at the instigation of Massinissa or that of Scipio.⁸⁹

⁸⁶So Schur *R-E* xiv, (1930) col. 2164 and thence Cimma (1976) 156.

⁸⁷Liv. *Per.* 50; App. *Lib.* 105-6; Zon. ix, 27. Fentress (1979) 61 assumes that Massinissa left the kingdom to his three legitimate sons on Scipio's advice.

⁸⁸*Inter alios*, Gsell (1928) iii, 364 rejects Zonaras, while Schur loc. cit. accepts it. See Saumagne (1966) 100-2, rejected by Walbank (1979) 677. On succession in Numidia, see Fentress (1979) 78 n. 3, who observes that a plurality of successors is paralleled in Numidian history.

⁸⁹For such a grading of kings, see Byrne (1973). As he observes, the Latin annals of Irish history 'are content with the title *rex* for all grades of kings': Byrne (1973) 259. A similar phenomenon can be found in the history of the Dinka of the Sudan. In Dinka terminology their great-chief and his two assistant-chiefs had different titles, but, in the Arabic terminology which they themselves adopted, the great-chief and his assistant-chief are not distinguished, all being referred to as *nazir*: see Deng (1973) 6 and 58. It may be, therefore, that our sources are using terminology which does not allow them or us to make important distinctions as to the precise status of Massinissa's heirs.

It should also be noted that Massinissa's many illegitimate sons received their own inheritances. Zonaras says that Scipio assigned numerous districts and territories to them. These may very well be the δωρεὰν which Scipio is said by Appian to have given them in addition to those they had received from their father. The word commonly means 'landed property': the Loeb translation ('gifts') is therefore probably misleading. Diodorus states that Massinissa left each of his sons 10,000 plethra (xxii, 16. 4): see Fentress (1979) 53-4. Of course, it may be that μυρία is here used imprecisely, as often, to indicate a large number.

IV

We have now considered all the royal wills known to have involved Rome in the period of the Republic and may proceed to the Early Empire. The Herods constitute our best evidence: their wills are therefore treated first.

The reign of Herod the Great, particularly in its latter years, was dogged by palace intrigue in which the succession to the ageing king was the dominant issue. As these intrigues unfolded, Herod changed his will on several occasions. His wills are therefore a more complex and changing affair than the other wills under discussion seem to have been. However, when comparing the Herods to other dynasties we must constantly bear in mind that we are especially well-informed in their case. It may be, therefore, that this complexity is no more than a function of our greater knowledge and that it was in fact matched in other cases. Certainly, where we have detailed information of a struggle for succession, complexity and fluidity are more the norm than the exception, particularly where the king is, like Herod, polygamous.⁹⁰

We are told that Herod was granted explicit permission to arrange his own succession by Augustus. The very granting of such permission is itself an indication of the extent to which royal successions were controlled by the emperor in the Early Empire. Such a grant is unparalleled and, although no king is as well-attested as Herod, it seems to have been at least unusual.⁹¹ Probably immediately upon his return to Judaea, having received this permission at Rome, Herod publicly named his successors:⁹² Antipater was named as his principal heir and, after him, Alexander and Aristobulus.⁹³ These public designations seem to have been intended to put an end to intrigues over the succession: it was perhaps with this in view that Augustus had granted Herod the privilege. According to Josephus, Herod might have preferred to abdicate in favour of his sons, but Augustus forbade it: if there is anything in this story it is an indication of the burden constituted by the succession issue.⁹⁴

But if these designations were intended to stop intrigue, they failed: intrigue continued apace, resulting in the executions of Alexander and Aristobulus.⁹⁵ This

⁹⁰The best account of Herod's reign is Schürer (1973) i, 287–329. For a survey of relations between Rome and Judaea, see Piattelli (1971). On the complexities of succession, see Goody (1966). For a case study, Spence (1974) esp. 128–39.

⁹¹See Cimma (1976) 297–330 and the literature she cites.

⁹²The earliest reference to this privilege is Jos. *AJ* xv, 343: it is also referred to at *AJ* xvi, 92. But neither of these passages is paralleled in *BJ*, wherein the privilege is first mentioned at *BJ* i, 454 (paralleled at *AJ* xvi, 129). This last reference seems to relate the grant of the privilege, but, according to the earlier passages in *AJ*, Herod already had it and therefore this can only be the confirmation of a pre-existing privilege. But then *AJ* would clash with *BJ* according to which this is the first grant not a confirmation.

One solution is to suppose *AJ* xvi, 129 (= *BJ* i, 454) to be the occasion of the first grant, earlier mentions being anachronistic. This solution is preferred here because the grant is thus set in an appropriate context: a hearing before Augustus arising out of succession intrigue, followed by his appointment of successors: *AJ* xvi, 133; *BJ* i, 458.

⁹³Antipater's priority is given by *AJ* xvi, 133, though *BJ* i, 458–65, esp. 458, might suggest that they were to be equal heirs.

⁹⁴*AJ* xvi, 129.

⁹⁵*AJ* xvi, 394; *BJ* i, 551.

would leave Antipater as principal heir. It is possible—though a possibility usually ignored—that Herod changed his will at this stage, for we are told that at this time Philip was named as heir after Antipater until he was struck out of Herod's will.⁹⁶ But whatever changes may have been made Antipater remained principal heir.⁹⁷ Yet Antipater was discredited in turn when the leading role he had played in the succession struggle came to light. Prompted by these revelations and by his own illness, Herod made another will. Although now his eldest eligible sons, with Antipater disgraced, Philip and Archelaus were not included: according to Josephus, their chances had been damaged by the calumnies of Antipater. In their stead Herod named Antipas as principal heir. To his other children he awarded legacies consisting of tracts of land and sums of money; whether Archelaus and Philip were included in this category is not known. To Salome, his sister, Herod left a large legacy in return for her fidelity. Herod seems also to have left legacies to his grandson.⁹⁸

This is the first will of Herod given in any detail by Josephus and it is in this will for the first time that we find a Roman dimension to his dispositions. Whether the Romans had figured in his earlier wills we do not know, but it seems probable that they did: the same may be said of his legacies to his broader family. Augustus was to receive 1,000 t. and (according to *B*7 i, 646) gifts in kind. The Emperor was not the only Roman beneficiary under the will: 500 t. (*A*7 xvii, 146), or approximately that amount (*B*7 i, 646), was to be divided between Livia, the imperial children, imperial *amici* and imperial freedmen.

Having made these new dispositions and having received the imperial sanction, Herod had Antipater executed.⁹⁹ With Antipater dead, Herod seems to have changed his attitude to the victims of his intrigues. Foreseeing imminent death, Herod changed his will once more. Now Archelaus, his eldest son, was named as principal heir, while Antipas and Philip each received tetrarchies. Salome received Jamneia, Phasaelis and Azotus with 500 pieces of coined silver. The other royal relatives received sums of money and revenues. Augustus was to receive 10 million pieces of silver, together with gold and silver vessels and precious clothes, while Livia 'and some others' were to receive five million pieces of silver. In this last will, Herod's dispositions with regard to the Romans seem not to have changed—there was no reason why they should: the 'others' who were to share a legacy with Livia are presumably the children, *amici* and freedmen of the previous will. Whether Salome's legacy had changed we cannot tell: there is no reason to suppose it to have done so. The essential change is the inclusion of Archelaus and Philip in this final will at the expense of Antipas. Shortly after making this will, Herod died.¹⁰⁰

The will was read in public after a letter from Herod to his troops calling for their continued obedience. It is only at this point that we find for the first time that Augustus' role with regard to the will was more than that of legatee. Herod charged

⁹⁶*B*7 i, 600; cf. *A*7 xvii, 78, where the text is unsafe. Of course, it is quite possible that Philip, previously included, simply rose a grade on his brothers' deaths. Archelaus presumably rose and fell with Philip.

⁹⁷*A*7 xvii, 96; *B*7 i, 625.

⁹⁸*A*7 xvii, 146; *B*7 i, 646. The former mentions legacies to grandsons while the latter does not.

⁹⁹*A*7 xvii, 182–7; *B*7 i, 661–4.

¹⁰⁰*A*7 xvii, 188–91; *B*7 i, 664–5.

his heir with the task of taking his seal and documents relating to the administration of the kingdom to Augustus at Rome. The will was not to take effect until Augustus had ratified it.¹⁰¹ This suggests something of a contradiction, for Herod had long since received the privilege of appointing his own successor. But although it may be that this stipulation was not strictly necessary, it was most certainly prudent as Herod's heir could only rule with the support of Augustus. Such prudence was particularly well-advised since Herod was on the brink of death and could not obtain Augustus' approval of his changed will before he died. Further, it may be that Herod, who was well-versed in the intrigues of a struggle for the succession, realised that his final arrangements would not stand undisputed.

Of course Herod's will was contested. Archelaus made the journey to Rome as instructed: others went too. Antipas went to argue for the validity of Herod's penultimate will whereby he had been named as principal heir. Both he and Archelaus were accompanied by entourages from Herod's household. Philip also made the journey. As well as members of the royal family, a Jewish and a Greek delegation also went to put their respective cases: the former urged that no Herod should be appointed king and that the Jews should enjoy autonomy under Roman rule, while the latter seem to have sought removal from the Herodian kingdom.¹⁰²

Augustus was faced with two types of request: that embodied in Herod's last will (and supported in person by Archelaus and his backers) and those contrary requests presented to him in person by these various parties. Augustus' final decision suggests a degree of response to both. Archelaus was to rule the largest part of Herod's kingdom, but without the royal title. Augustus allowed him only the title of ethnarch, withholding the royal title until he had earned it. This decision may have been conditioned by the appeal of the Jewish delegation that the monarchy be ended: Pompey seems to have responded similarly to a similar request, by withholding the royal title from Hyrcanus II and allowing him only that of ethnarch and high-priest.¹⁰³ Archelaus was also deprived of the Greek cities of Gadara, Gaza and Hippus, which were annexed to Syria. The annexation of these cities may well have been a response to the Greek delegation.

Antipas and Philip received exactly what Herod had left them. Salome received her legacy from Herod, to which Augustus added the palace at Ascalon. The rest of the family received the legacies allotted them by Herod. In addition, Augustus gave 500,000 drachmas to Herod's two unmarried daughters and married them off to sons of Herod's brother Pheroras. On top of all this, Augustus distributed among

¹⁰¹*AJ* xvii, 195; *BJ* i, 669; cf. *AJ* xvii, 202; *BJ* ii, 2; *AJ* xvii, 239.

¹⁰²Archelaus: *AJ* xvii, 219–21; *BJ* ii, 14–15. Antipas: *AJ* xvii, 224–7; *BJ* ii, 20–2. Jewish delegation: *AJ* xvii, 300 ff.; *BJ* ii, 80 ff. We should note that this delegation had strong support both among the Jews of Rome and among members of the Herodian dynasty itself who opposed Archelaus: *BJ* ii, 22; *AJ* xvii, 227. The Greek delegation is omitted by Josephus: we rely on Nicolaus of Damascus *FGH* 90, F. 136. 9. The composition of this delegation is not known: observe the caution of Jones (1967) 164, whereas Smallwood (1976) 108 assumes —perhaps rightly—the absence of delegates from Caesarea and Sebaste.

¹⁰³On Hyrcanus' ethnarchate under Pompey's settlement, see Smallwood (1976) 27 n. 22, who notices the implication of *AJ* xx, 244, overlooked by others. It seems likely that Pompey was responding to Jewish feeling that the kingship was not traditional and not to be continued: a case put to him by a Jewish delegation: *AJ* xiv, 41 with 46.

the family the 1,000 t. left him by Herod.¹⁰⁴ Augustus' arrangements can therefore be seen as something of a compromise between the various claims upon him, not least the perpetual need to be beneficent.¹⁰⁵ From all that Herod had left him, Augustus kept only a few mementoes of the dead king.

Herod's is not the only will known from his dynasty. Upon her death in about A.D. 10, Herod's sister, Salome, left a will in which she bequeathed Jamneia, Phasaelis and Archelais to Livia. Augustus is not named as a beneficiary.¹⁰⁶ It has been suggested that Salome was all but forced to make this bequest: that she may have only been allowed to receive her legacy from Herod, the palace at Ascalon and, later, Archelais, on the clear understanding that she bequeath it all to Livia on her death. But this is to misconceive the nature of Salome's bequest: it was a bequest to a friend and patron, for Salome and Livia seem to have been especially close. They are first connected at the time when marriage was mooted between Salome and Syllaeus of Nabataea: it was Livia who persuaded her against the match. It was precisely this link between them that made Salome vulnerable to a ploy of Antipater, who used Livia's slave, Acme, to forge correspondence supposedly sent by Salome to Livia, denouncing Herod. The very nature of the plot serves to underline the connection between the two ladies.¹⁰⁷

It is curious that Josephus omits Azotus and the palace at Ascalon from his list of the properties left to Livia by Salome. This could be a small oversight on Josephus' part or it could be that Salome bequeathed them to another, perhaps to her daughter, Berenice. Berenice herself made a will involving Rome, for we are told that she bequeathed a freedman named Protos to Antonia, the mother of Claudius.¹⁰⁸ We have no further knowledge of the contents of the will. Like Salome and Livia, Berenice and Antonia had been close. The connection comes to light as part of the early life of Agrippa I, Berenice's son. Antonia had had him brought up in the circle of Claudius. It was for this reason and because she remembered Berenice that Antonia later made Agrippa a vital loan.¹⁰⁹

The wills of the Herods are not the only wills known from the Early Empire. It is generally held that upon his death in 25 B.C. Amyntas, king of Galatia, left a will under which Augustus was a beneficiary.¹¹⁰ The case rests primarily on a passage of Strabo, who, when discussing the priesthood of Mēn at Pisidian Antioch, says that after the death of Amyntas the priesthood was dissolved by those sent

¹⁰⁴*BJ* ii, 100; cf. *AJ* xvii, 323, which gives the sum as 1,500 t., perhaps including the 500 t. left to Livia and the others.

¹⁰⁵On this pressure, see Millar (1977) 153. It is evident that, *contra* Wachholder (1962) 35, Augustus made only relatively minor alterations to Herod's last will. On the succession to Herod and its aftermath, see Momigliano (1934) 72–7.

¹⁰⁶*AJ* xviii, 31; *BJ* ii, 167.

¹⁰⁷The suggestion is that of Smallwood (1976) 108. On the Syllaeus incident: *AJ* xvii, 10, where the Loeb translation of ἄλλως as 'on other occasions' is misleading. The Acme affair: *AJ* xvii, 137–41; *BJ* i, 641–6, with Millar (1977) 72.

¹⁰⁸*AJ* xviii, 156.

¹⁰⁹*AJ* xvii, 165; cf. 143, where the reading is insecure.

¹¹⁰See especially Levick (1967), esp. 219–20 and Magie (1950) 1304 n. 3, who review previous discussions. On the subsequent annexation, Sherk (1951) 12–20.

ἐπὶ τὴν ἐκείνου (sc. Amyntas) κληρονομίαν (xii, p. 577). This κληρονομία is usually taken to be a legacy left to Augustus by Amyntas.¹¹¹

It is perhaps odd that neither Strabo nor Dio mentions such a legacy at what might seem more appropriate points in their respective accounts. One wonders whether κληρονομία might mean no more than 'what Amyntas had left upon his death'. But the standard view finds some support in the fact that a slave and a freedman, each with the *agnomen* 'Amyntianus', are known to have been members of the imperial household. This *agnomen* would be explained, if, as often supposed, they had been left to Augustus by Amyntas of Galatia.¹¹²

The bequest of slaves and freedmen to the imperial family is a well-known phenomenon. We have already seen that Berenice, Herod's niece, left a freedman to Antonia.¹¹³ Moreover, in addition to these 'Amyntiani', three more *agnomina* reminiscent of kings are found in the *familia Caesaris*: Herodianus, Archelaianus and Iubatianus. It is usually held that these men were bequeathed by Herod the Great, Archelaus of Cappadocia and Juba II of Mauretania respectively.¹¹⁴ That Juba left any such legacy is otherwise unattested. A neglected passage of Jordanes provides some very slight support for a will of Archelaus of Cappadocia, but a will bequeathing his whole kingdom to the Romans, not a legacy to the emperor.¹¹⁵ The presence of a Herodianus must advise caution. As we have seen, Josephus gives detailed information on Herod's bequest to Augustus and what part of that bequest Augustus accepted: at no point does Josephus mention such an individual. It is possible that Josephus includes him among the items kept by Augustus, but these

¹¹¹So Levick and Magie *ibid.* Hoben (1968) 137 follows, without argument, the old view of Ramsay, against which see Levick and Magie *ibid.* It should be noted, *contra* Hoben, that Dio liii, 26. 3 says nothing of a will.

¹¹²For imperial Amyntiani: *CIL* VI, 4035; 8894. Other Amyntiani are known from Rome, but there is no indication that they are imperial: *CIL* VI, 4175; 8738; 10395. On these last, note the caution of Magie (1950) 1304 n. 3 and Weaver (1972) 213 n. 1, whereas Levick (1967) 219–20 and Boulvert (1974) 25–6 treat all the known Amyntiani as imperial. This is not mere quibbling. If there are non-imperial Amyntiani, two alternative deductions can be made: either they were not bequeathed by Amyntas of Galatia, in which case the provenance of the other Amyntiani is put very much in doubt, or Amyntas left legacies to Romans outside the imperial circle in addition to his bequest to Augustus. Indeed, there is a distinct possibility that one of the two imperial Amyntiani was bequeathed not to Augustus, but to Livia: observe his nomenclature: *M. Livius Aug. lib. Anteros Amyntian.* (*CIL* VI, 4035 with Boulvert 26 n. 121).

Some support for a connection between Amyntas and the Amyntiani is provided by the fact that Amyntas' son, Pylaemenes, may himself have bequeathed a Pylaemenianus found in the household of the emperor Gaius (*ILS* 1589; cf. *EJ* no. 109). The identification of this Pylaemenes with that of *Anth. Pal.* vi, 241 is insecure, *pace* Gow and Page (1968) 54.

¹¹³Boulvert (1974) 18 observes: 'les legs constituent certainement un des modes les plus importants d'acquisition d'esclaves par l'empereur'. On Protos, see Jos. *AJ* xviii, 156.

¹¹⁴Herodianus: *ILS* 1795. Archelaianus: *CIL* VI, 4776 and, perhaps, 5872 (on which, see Boulvert (1974) 26 n. 122). Iubatianus: *CIL* VI, 9046. On the Archelaiani in particular, it should be noted that a connection with Archelaus of Judaea is no less possible than one with Archelaus of Cappadocia. Note also a Remothalcianus: *EJ* no. 156.

¹¹⁵Jord. *Rom.* 225–6, but Tacitus and Velleius say nothing of it. There it is also stated that a Pylaemenes of Paphlagonia left his kingdom to Rome: this is found in no other source: a link with the son of Amyntas seems impossible.

seem to have been ornaments.¹¹⁶ Of course, Josephus could be guilty of a minor omission, but it may also be that Herodianus passed from Herod the Great to Augustus—which is in itself uncertain—during the king's lifetime.¹¹⁷ Doubts which apply to the case of Herodianus can also be levelled at others like him. It must be concluded that an *agnomen* alone is insufficient evidence for a legacy to be assumed, though it is suggestive of one.

Next, Noricum. Hassall has recently suggested that the annexation of Noricum, probably in 15 B.C., *may* (his italics) have been consequent upon the will of its last king. Of course, the possibility of such a will cannot be denied, but it must be stressed that there is no shred of evidence to support the suggestion: the silence of our sources, poor as they are, must tell against it. In fact the only reason for annexation offered by any source is that given by Dio, who regards the annexation as a response to a Norican invasion of 16 B.C. The annexation seems to have been part of the broader northern offensive of Tiberius and Drusus in 15 B.C.¹¹⁸

Finally, to Britain and the Iceni. In A.D. 59 or 60, Prasutagus, king of the Iceni, died. He left a will in which he named Nero and his daughters as his heirs. Our evidence for this will consists entirely of a single passage of Tacitus, who is more concerned with the ensuing revolt of Boudica (*sic*) than with the will. But the will was no small matter, for, according to Tacitus, Prasutagus was *longa opulentia clarus*.¹¹⁹

At this point we meet a major problem which is too often passed by: we simply do not know how Nero and the king's daughters were to divide the inheritance, for Tacitus does not tell us.¹²⁰ It could be that the king envisaged the succession of his daughters (or one of them) to the throne, as is often assumed. But it is equally possible that, like Nicomedes IV of Bithynia, Prasutagus had bequeathed his

¹¹⁶Jos. *BJ* i, 669 with 646; ii, 100; *AJ* xvii, 190; 323.

¹¹⁷Compare the suggestion that Antiochus IV of Commagene gave a slave to Claudius, though it is quite uncertain: *CIL* VI, 8633 with Boulvert (1974) 26 n. 130. Cf. also the concubine given by Augustus (probably: the text is dubious) to Phraates IV of Parthia: Jos. *AJ* xviii, 40.

It must be stressed that the ending *-ianus* in these cases only tells us that they at some time probably belonged to an Amyntas or a Herod etc. The identities of these masters and the manner in which their servants passed into the imperial household are ultimately matters of speculation. It is salutary to recall the classification of Hülsen (1888), who regarded all but the Amyntiani as deriving their names from other slaves and qualified the connection between the Amyntiani and Amyntas of Galatia with a 'perhaps'. On the *-ianus* ending, see Boulvert (1974) 11–29; Weaver (1972) 212–23; Veyne (1962).

¹¹⁸For the suggestion, see Hassall (1977) 232, who seems to have taken literally a figurative usage of inheritance in Alföldy (1974) 43. On the date and nature of the Roman annexation, see Alföldy (1974) 52–7. For another view, see Kniessl (1979), who argues for a Claudian annexation. Against Alföldy (1974) 55 it must be objected that Festus' *accesserunt* (*Brev.* 7) cannot be pressed in support of a peaceful annexation.

¹¹⁹Tac. *Ann.* xiv, 31. On the motivation there ascribed to the king, see below. Boudica seems to have been largely or completely omitted from the will, *contra* Collingwood *CAH* X, 802. On the spelling of her name, see Jackson (1979). For a possible coinage of Prasutagus, see Mossop (1979); yet the archaeological remains do not bear out Tacitus' assessment of his wealth: Dudley and Webster (1962) 47–8. How long he had reigned is unclear: see Frere (1978) 84–5.

¹²⁰Note the entirely correct caution of Frere (1978) 104.

kingdom to Nero and provided for his daughters in legacies. There seems to be no way around this problem, but one point deserves attention. In Tacitus' account of the revolt of Boudica and its origins, Tacitus does not say that Nero's agents were wrong to take the kingdom: this is not made an issue. Rather, Tacitus attacks the brutal *manner* of the annexation. Tacitus' line of attack must be some slight indication that Prasutagus had bequeathed his kingdom to Nero and that annexation was in itself justified.

V

It should now be apparent that the range and number of royal wills involving Rome is considerably greater than is usually recognised. As we have seen, each case is enmeshed in its own particular circumstances. These are fundamental to our understanding of the wills. But, while giving full recognition to their importance, we must generalise if we are to understand the rationale behind these wills: they must be treated as a single multi-faceted phenomenon. The most rewarding approach is through those wills of the Republic which conferred *tutela* on the *populus Romanus*.

Our starting-point must be the awareness that under any monarchical system, the succession is an ever-present, potentially overwhelming difficulty. The wills of Herod are a case in point. Filial succession, whereby the royal father is succeeded by his royal son, is the mode of succession most favoured in those cases with which we are concerned. Under this system, the king might well leave a successor who was still a minor. If the minor was to succeed successfully and thereafter retain his throne, he would need adult acquiescence and support: particularly valuable to him would be a guardian or regent. But the guardian must not seize power for himself. The selection of a guardian is therefore a matter of the highest importance if the royal son is to keep his throne. The royal father might well seek to control it. His will would be a powerful instrument of control. This is the mechanism that generates royal wills naming the guardian(s) of the royal heir(s). Of course, such wills are by no means confined to royalty: they are found at all levels of society where filial succession is practised.¹²¹

Once the decision to appoint a guardian has been taken, the king must consider his choice. One pair of alternatives open to the king is particularly important for us: he can choose a member of his kingdom or a foreigner. If he prefers a plurality of guardians, he can include both. The *populus Romanus* was such a foreigner. But this foreigner was no stranger. The *populus Romanus* was the king's friend and ally: upon this connection the king's position might very well depend. This pre-existing link must have been fundamental to the king's selection of the *populus Romanus*. Closely related to this was the power and renown of Rome: Rome could be an authoritative guardian. At the same time, as Rome began increasingly to control succession in the Mediterranean world, she became the obvious choice.¹²²

It must be stressed that the employment of an external guardian is not confined to the relationship between kings and Rome.¹²³ Of particular interest to us

¹²¹See the literature cited in n. 90 above.

¹²²See Badian (1958) 105–6.

¹²³For African parallels, see Goody (1966) 6.

is the fact that the practice is known to have occurred in Asia Minor before the Romans became a major force there. This fact is illustrated by the will of Nicomedes I of Bithynia, who seems to have died about 255/3 B.C.,¹²⁴ leaving a will which appointed five external guardians to his two young sons by his second wife. These he named as his heirs in preference to Ziaecalas, his elder son by his first wife. The guardians so appointed comprised two kings, Ptolemy II and Antigonos Gonatas, and the peoples of three cities, Heracleia Pontica, Byzantium and Cius.¹²⁵ Heracleia and Byzantium had previously formed a coalition with Antigonos and Nicomedes against Antiochus I: nor was Ptolemy II a friend of the Seleucid.¹²⁶ However, the might of these guardians did not prevent Ziaecalas, with his own external support from the Galatians, seizing the throne for himself. The Bithynians opposed him with the help of troops obtained from the guardians of Nicomedes' young heirs, but to no avail. Under the eventual settlement, negotiated, according to Memnon of Heracleia, by Heracleia, Ziaecalas was left as king; but the repercussions of the will and the usurpation did not end there. One of the two young heirs seems to have settled in Macedon, the kingdom of one of his guardians. From there, another guardian, the Byzantines, brought him in a futile attempt to restore him to the Bithynian throne in place of their enemy, Prusias I, son of Ziaecalas.¹²⁷

The case of Nicomedes' will is a valuable illustration of the role of external guardians. We should note that, as might be expected, Nicomedes seems to have appointed as guardians those with whom he had already formed friendly links.¹²⁸ Moreover, among these guardians were three cities—more precisely, the peoples of three cities. There is a particularly close parallel and precedent here for the appointment of Rome—more precisely, the *populus Romanus*—as guardian to royal heirs.¹²⁹ Further, the whole affair amply indicates the uncertainties of succession even where such powerful guardians were appointed. In this case the guardians act as providers of military support against usurpation (though, one may suspect, not applying their full force), as intermediaries for their charges upon the failure of their cause, as providers of a place of refuge thereafter and as active supporters of the cause again when it suited them.

As Rome emerged as a dominant force in the Mediterranean world, at the centre of a web of alliances, a king might well name the *populus Romanus* as guardian of his heir(s), where previously he would have named other cities and kings.¹³⁰ Further, we have seen that a king tended to choose as guardians of his heir(s) cities and kings with which he had a particular connection. But where the *populus Romanus* is concerned, there is rather more to it than this. It must be stressed that the whole

¹²⁴See Tarn (1913) 327 n. 38.

¹²⁵Memnon *FGH* 434. F. (16) 22 is the only source.

¹²⁶Information on Cius is simply lacking, *pace* Will (1979) 139. It is doubtless through considerations of this sort that Will sees the dominant criterion for Nicomedes' selection as opposition to the Seleucid threat: Will (1979) 246–7. On these connections, see Will (1979) 139 and 142. Note also Ptolemy II and Byzantium: Will (1979) 147 and 149.

¹²⁷Pol. iv, 50 with Walbank *ad loc.*

¹²⁸See above n. 126.

¹²⁹On the personification of the demos, see Richardson (1979) 8.

¹³⁰On the similarity of Rome's position to that of a king, see Richardson (1979) 10–11.

relationship between Rome and her kings was regularly conceived in terms of protection and guardianship, of the exercise of *tutela* by the *populus Romanus* over the king.¹³¹ Thus, when Hiero II joined the Romans in 263 B.C., Polybius says that he placed himself under the protection of the Romans (Pol. i, 16. 10). Similarly Cicero asserts that kings and foreign peoples had always been under the *tutela* of the consuls, the chief magistrates of the *populus Romanus* (*pro Sest.* 64). When Cornelius Gallus set up his famous inscription, he claimed to have received Ethiopian legates at Philae and to have taken the king of Ethiopia into *tutela*.¹³² It is as part of this conception of Rome's position *vis-à-vis* kings that we should understand Velleius' characterisation of the independence of Mithridates VI Eupator: he describes him as *ultimus omnium iuris sui regum praeter Parthicos* (Vell. Pat. ii, 40. 1). This conception can only have been reinforced where kings sent their sons to Rome in their youth and thus set them physically in Roman hands: according to Livy, the legates of Ariarathes IV of Cappadocia recognised and encouraged this conception when they petitioned that the future Ariarathes V, sent to be brought up at Rome at the beginning of the Third Macedonian War, should be kept *non sub hospitum modo privatorum custodia, sed publicae etiam curae ac velut tutelae*.¹³³

Therefore, when the king looked for an external guardian for his heir, Rome was the obvious choice not only because she was powerful and a state with which the king had friendly relations, but also because this very relationship was one which might be considered a form of *tutela*. By appointing Rome as *tutor*, the king strengthened the connection between Rome and his heir, a connection which became increasingly important as Rome's power grew.

Something of a bridge between the narrower and broader senses of *tutela* is provided by the case of Cicero and Ariobarzanes III of Cappadocia in 51 B.C. Cicero was commissioned by the Senate to protect the king, whose father had recently been assassinated. Cicero explicitly describes his role as *tutela*.¹³⁴ In this case the *tutor* was appointed not as the result of a will but, apparently, entirely on the initiative of Rome: the commission was for Cicero a supplementary task added to his governorship of neighbouring Cilicia. Cicero makes much of the singularity of his commission and the fact that we know of no earlier case like it bears him out (*ad Fam.* xv, 2. 4). But though it may have been the first, it seems not to have been the last, for Suetonius states that Augustus appointed guardians over young or mentally ill kings:

‘nec aliter universos quam membra partesque imperii curae (sc. reges) habuit, rectorem quoque solitus apponere aetate parvis aut mente lapsis donec adoluerent aut resipiscerent.’

(Suet. *Aug.* 48)

We should observe the notion that the emperor took care of kings: this is another aspect of *tutela*. However, only one case of such an appointment is known and this

¹³¹See Sherwin-White (1973) 187–8.

¹³²*EJ* no. 21: on the term in this inscription, see Demicheli (1976) 72.

¹³³Livy xlii, 19. 4; cf. Badian (1958) 105–6. Of course, the notion of *tutela* here may well have been the creation of Livy or his source, but that hardly diminishes its importance.

¹³⁴Cic. *ad Fam.* xv, 2. 4 (*tuerer*) and *ad Att.* vi, 1. 3 (*tutela*).

has been misinterpreted. Dio tells us that Augustus sent an ἐπίτροπος to administer Cappadocia, because its king, Archelaus, was not *compos mentis* (Dio lvii, 17. 5). Dio gives no further details. The term ἐπίτροπος has been taken to mean 'procurator'. But this is to miss the point for, although it can indeed mean 'procurator', it is also the Greek translation of *tutor*. The appointment of such a *tutor* would be entirely appropriate in the case of a mentally ill individual, as Archelaus is said to have been. Moreover, Dio clearly uses ἐπίτροπος in just this sense only a little later in his narrative (Dio lvii, 23. 4). This appointment therefore provides some substantiation for Suetonius' generalisation, for, though Suetonius uses the term *rector*, he evidently has the role of a *tutor* in mind. Whether there is any more substance to the generalisation we do not know.¹³⁵

An imperial *tutor* is also known to have been sent to Thrace by Tiberius in A.D. 19 or shortly after. He was sent to administer the kingdom of the sons of the murdered Cotys VIII, who were still minors. Once again the initiative for the appointment seems to have come from Rome: at least no will is mentioned (Tac. Ann. ii, 67). The appointment of this man, of Archelaus' *tutor* and of Cicero represents a practical manifestation of Rome's conception of her imperial role.

A sense of proportion must be retained. Although the appointment of external guardians is a common enough phenomenon, instances of it in the Graeco-Roman world are rare: Nicomedes I and Auletes constitute the only definite cases. A sense of proportion is still more important when we come to consider the wills in which a king went a stage further and bequeathed his kingdom to Rome under the Republic. It must immediately be stressed that we know of no Hellenistic precedent for this practice before the will of Physcon in 155 B.C. But in the following 80 years or so we know of four more such wills besides.¹³⁶

It is probably this lack of Hellenistic precedent that has led some scholars to argue that Rome actively encouraged kings to make such wills so as to gain their kingdoms. It is likely enough that individual Romans consorted with kings about their wills, much as Massinissa sought the advice of his Roman friend and patron Scipio Aemilianus upon the matter of his succession. But it is quite another matter to suppose that the Roman state actually worked for the cession of kingdoms by will. There is no evidence to support the view, and the Roman reaction—or lack of it—to the bequest of Cyrenaica must tell against it in this case at least.¹³⁷

At this point we must consider the case of Mithridates V of Pontus, the father of Eupator, for here, it might be thought, lies a precedent for such wills in the Hellenistic world. According to Justin, Eupator claimed that his father inherited Paphlagonia from its king, Pylaemenes (xxxviii, 4. 5). Eupator is made to advance this claim in order to counter Roman objections to his invasion of the kingdom.

¹³⁵For the translation 'procurator', see Gwatkin (1930) 12. *Pace* Gwatkin, I can find no trace of Roman creditors in this episode. Cimma (1976) 293 n. 8 follows Pani's suggestion that Augustus sent his man into Cappadocia to prepare for the kingdom's annexation. There is no support for this and it might seem less plausible to Cimma were she to date the annexation correctly to 17/8 A.D. rather than B.C.

¹³⁶A Hellenistic precedent is sometimes sought in the will of Nicomedes I discussed above, but the will is no real precedent for it does not involve the bequest of a kingdom, as we have seen.

¹³⁷The notion seems to have originated with Piganiol (1933) 411.

Its validity is at best dubious.¹³⁸ Later, Justin makes Eupator say that he alone of kings possessed not only his ancestral domains but also *externa regna hereditatibus propter munificentiam adquisita* (Justin xxxviii, 7. 10). These he names as Colchis, the Bosporus and Paphlagonia, but his claim to Colchis and the Bosporus seem as dubious as those to Paphlagonia.¹³⁹

However, invalid as they seem to be, these claims take on a more interesting aspect when set beside a well-known passage from Sallust's *Histories* which we have met before. In the letter to the Parthian king which Sallust attributes to him, Mithridates is made to claim that the will of Attalus III is a forgery, while Bithynia should not have been inherited by Rome, since Nicomedes left a legitimate heir. We have seen that these assertions, like the claims attributed to him by Justin, lack credence. But what emerges from Justin and Sallust is something of a tradition that Eupator concerned himself with the bequest and inheritance of kingdoms, especially in the context of his dealings with Rome. How far this tradition reflects the concerns of the historical Mithridates is unknown, but we must remember that as a leading king in Asia Minor, very probably with ambitions to become more than that, the arrival of Rome through the bequests of Attalus and Nicomedes was a matter of outstanding importance. That is, it seems more likely that the supposed inheritances of the Pontic kings were generated by the relatively frequent and essentially new incidence of wills from 155 B.C. onwards than that they constitute an independent Hellenistic precedent.

Wills by which kings left kingdoms to Rome fall into two main categories. On the one side, the wills of the Ptolemies. It is hardly coincidence that three of the five wills by which kings left their kingdoms to republican Rome were made by members of the same dynasty: Physcon, Apion and Alexander II. Nor is it likely to be coincidence that wills appointing the *populus Romanus* as *tutor* of the royal heir(s)—the wills of Philopator and Auletes—are twice found within the same Ptolemaic dynasty. The number of wills involving Rome made by the Ptolemies is thus entirely disproportionate. It may very well be that each Ptolemy was stimulated to make such a will by the wills of his predecessors.¹⁴⁰

The second category of wills by which kingdoms were bequeathed to Rome is found in north-west Asia Minor, in the intimately related kingdoms of Bithynia and Pergamum. We may add the rhetoric ascribed to Mithridates and the will of Sadalas, for Thrace may readily be considered an area closely related to north-west Asia Minor. Here too the same phenomenon may be discernible. When Nicomedes IV drafted his will leaving his kingdom to Rome, he must have been aware of the will of Attalus. It has already been suggested that Mithridates' rhetoric (if it is indeed his and not that of Justin and Sallust) was encouraged by the bequest of kingdoms to Rome. If Sadalas did indeed make a will, he in turn may have done so with an eye to the wills of those who had ruled neighbouring kingdoms.

¹³⁸Magie (1950) 197 reasonably takes it to be a trumped-up pretext, designed to add a semblance of legitimacy to Mithridates' invasion.

¹³⁹On these acquisitions, see Magie (1950) 195–6, 1092–3; also Sherwin-White (1977b) 176–7.

¹⁴⁰Though somewhat different, the case of Massinissa may be taken together with those of the Ptolemies, his neighbours: note Physcon on Massinissa: *FGH* 234, F. 7–8.

Having observed these two groups of wills, it is tempting to seek some connection between them. No very particular connection is to be found by which the practice of making such wills passed from one sphere to the other. But both the rulers of north-west Asia Minor and the Ptolemies were important figures in the Eastern Mediterranean: more important, both were connected with Rome. It is in terms of this very obvious common ground that we must start to understand why wills involving Rome start to appear with relative frequency from the late third and, especially, the second century B.C. This was the very period in which Rome emerged as a dominant force in the Eastern Mediterranean, relying for her power and position largely on the friendships and alliances she had formed with the kings and communities of the area.

This is the foundation, but another factor must be stressed. All those kings who definitely left kingdoms to Rome, with the possible exception of Apion, had very troubled reigns. This much has been observed before and has given rise to what is now the dominant interpretation of the rationale behind these wills: that they were made as a form of 'insurance policy' for the kings. It is argued that the king made a will of this type in order to protect himself from his enemies. The will protected the king, it is urged, because it made it quite clear to the king's enemies that, should they succeed in killing him, they must next face Rome as his successor. At the same time, it is argued, the very act of making such a will could only improve the king's standing with the Romans and thereby strengthen his position on the throne still further. The vital piece of evidence for this view is the will of Physcon, since, it is claimed, '... the basic intention (sc. behind this will) was to make it profitless for Philometor to murder his brother'.¹⁴¹

To some extent the view is attractive and no attempt will be made to deny it all validity; but, at the same time it will be argued that the view entails certain difficulties and is at most only one facet of the rationale behind these wills.

The insurance policy notion, as we may call it, depends entirely upon the contents of the king's will being known to his enemies,¹⁴² and preferably also to the Romans. In the case of Physcon this presents no problem since, *pace* Wilcken and Bickermann, it seems to have been published at the time of the king's difficulties in 155 B.C. That it was known to Philometor and to the king's enemies within the kingdom is therefore probable enough. Its contents were presumably also known at Rome, whither a copy was sent: it seems unlikely that it would be published in Cyrene and kept secret at Rome.

But with Attalus' will the situation is very different. There is no reason at all to suppose that the contents of the will were known in Pergamum until the king died. Moreover, it seems not to have been known at Rome until Eudemus arrived with it in 133 B.C., which tends to suggest that it was not known in Pergamum either. In the other three cases of such wills under the Republic, we have no information as to their publication or secrecy. However, it is difficult to imagine Alexander II, so soon after his accession, still in his youth and in a deteriorating situation, proclaiming at Alexandria that he intended to bequeath his kingdom to Rome.

¹⁴¹ Sherwin-White (1977a) 66. Harris (1979) 149 is more circumspect.

¹⁴² The only scholar to have brought out this crucial assumption seems to be Piganiol (1933) 422-3.

On this crucial point of publication the 'insurance policy' notion requires a large measure of assumption, assumption which, in the cases of Attalus and Alexander at least, seems unwarranted. But if the king's enemies were to be deterred by the terms of his will they must know these terms.

Moreover, the 'insurance policy' notion depends not only on the will being known but on its having a deterrent effect once known. There are two problems here. First, the king was already closely aligned with Rome. Therefore, should he be killed, his killers must face the possibility of retribution from Rome in any case. Therefore we must suppose, on the 'insurance policy' view, that the king made his will not simply as a deterrent but rather as a boost to the deterrent effect already created by his link with Rome. This is entirely plausible, but the deterrent effect of the will itself then becomes rather less significant.

The second problem is more serious: the will would only deter those deterred by the prospect of war with Rome. Given this, the 'insurance policy' notion does not suit the cases of Alexander and Nicomedes. In the Late Republic the Alexandrian mob had scant respect for Rome, as it showed by killing Alexander and ousting Auletes: a will would hardly have stopped it and, in the event, did not. Similarly, Mithridates had fought two wars with Rome before 74 B.C., caused in part by his designs upon Bithynia, and almost immediately upon the Roman annexation of the kingdom he invaded it to start a third. Nicomedes can hardly have expected to gain very much by bequeathing his kingdom to Rome for the purpose of 'insurance': Rome had twice shown that she would support him against Mithridates.

It has been suggested that Philometor spared Physcon's life in 154 B.C. because he was deterred by the prospect of Rome in Cyrenaica (and perhaps Cyprus). Of course this is possible, but it is equally possible that Philometor spared Physcon in order to improve—or at least not make worse—his position at Rome: that is, Physcon's broad relationship with Rome, not simply his will, may very well have saved his life.¹⁴³

In short, there is no reason to suppose that a royal will ever deterred an aggressor. Attalus' will evidently failed to deter Aristonicus, whose revolt seems to have broken out and certainly continued after the will was public knowledge. Similarly, we have seen that wills did not save Alexander or Nicomedes' Bithynia. If kings left their kingdoms to Rome to ensure their personal safety from attack by instilling a fear of a Roman succession, they seem to have seriously miscalculated.

But the notion of the will as an 'insurance policy' is not to be completely denied. In most circumstances the potential succession of Rome can only have improved the king's position, but only where the king's will was known and then only to a limited extent. The notion seems most plausible in the case of Physcon, but even there it finds little support beyond the simple fact that Physcon mentions a plot against himself in his will.

Another line of approach is suggested by another factor common to all these

¹⁴³On this incident, see Walbank (1979) 553. While Préaux (1978) 155 relates Physcon's survival closely to the will, Scullard (1973) 236 prefers to understand it in the context of the broad relationship between Physcon and Rome.

wills: all the kings who made them seem to have lacked a successor. Particularly striking on this point is the will of Physcon, where it is explicitly stated that the will only applies while the king remains without a successor (lines 12–13). Further, it has been suggested that Nicomedes' will contained a similar clause, since Mithridates is made to say that Rome should not have annexed Bithynia because Nicomedes left a son.¹⁴⁴ We need not go so far as to posit such a clause; it is sufficient that Mithridates should be made to present such an argument.

These were the wills of men with no son to succeed them. It has been observed that the ordinary private individual, if he lacked a successor within his family, might well look for a successor among his friends. That is precisely what these kings were doing.¹⁴⁵ Particularly striking is the way in which Physcon harps upon his friendship and alliance with Rome in his will. This is especially the case at lines 15–16, where Physcon's reference to this friendship and alliance is not otiose as Otto thought, but rather an explanation of the appointment of the Romans as heirs to the kingdom. At the same time, Physcon seems to envisage his will as an instrument which carried over his friendship and alliance with Rome into the period after his death (esp. lines 20–2). Similarly, Auletes' rather different sort of will seems to have invoked the king's *foedera* with Rome in order that his arrangements be approved and carried out (Caes. *BC* iii, 108).

To compare the friendship of private individuals with that between a king and Rome is not as facile as it might at first appear. In the Hellenistic world in particular, interstate relationships were understood and expressed on many occasions in familial terms. States often traced a familial link back to a common legendary or historical ancestry. Thanks to the legendary role of Trojans in the foundation of the city, Rome was very much a part of this phenomenon. Further, the notion of a familial link between Rome and her kings also existed on a metaphorical level. So, when a king looked beyond his family to his friend the *populus Romanus* as his successor, he was looking to a friend who might even be deemed part of the family. On this view, Physcon's use of the adverb γνησίως at line 16 is particularly apposite, for it neatly encompasses both notions of family and friendship.¹⁴⁶

Moreover, Rome was a friend from whom the king may well have received large benefits, either in person or through his predecessors. A king thus indebted to Rome's beneficence can only have been encouraged to leave his kingdom to Rome where a suitable successor was lacking within his family.¹⁴⁷ Physcon had most certainly derived benefits from his association with Rome, who had supported him against Antiochus IV and Philometor in turn. Similarly Attalid power had grown with that of Rome, despite a temporary lapse under Eumenes II. Of Apion we do not know enough: it is sufficient that he was the son of Physcon. Alexander had been sent to rule by Sulla, while Nicomedes IV could only retain his throne with Roman military backing.

Another notable feature of the wills of Physcon, Attalus and perhaps Apion

¹⁴⁴Sherwin-White (1977a) 67.

¹⁴⁵For the observation, see Segre (1932) 429.

¹⁴⁶On this phenomenon, see Braund (1980a), esp. 421 n. 8; Rigsby (1980) 242–8.

¹⁴⁷See most recently Applebaum (1979) 63.

is the king's apparent solicitude for his kingdom after his death. Physcon calls upon Rome to come to the aid of his kingdom should it be attacked: his appeal constitutes a quarter of the whole document (lines 17–23). Attalus provides for the freedom of the cities of his kingdom, it seems: certainly for that of Pergamum. Apion may have done the same. This sort of solicitude is paralleled in the wills of other Hellenistic rulers. Polybius thinks that Antigonus Doson was an admirable protector of his kingdom and his son both in his lifetime and after his death, because in his will Doson made detailed dispositions for everything in order to forestall the rivalries and quarrels that could accompany succession (Pol. iv, 87. 6–8). Similarly, Antiochus IV of Syria, Physcon's enemy, recognising the possibility of sudden death through illness or warfare, is said to have written a letter to the Jews in which he arranged the succession in order to forestall internal unrest and foreign invasions. Moreover, in the same letter, Antiochus says that his father habitually took this precaution, whenever he crossed the Euphrates.¹⁴⁸

Such expressions of solicitude were not entirely disinterested. Through careful dispositions and a smoothly arranged succession, whether by son or by Rome, the king could only increase his own renown. This would improve his standing both in life, if the will were known, and after death when it would be put into practice, winning praise for the king, like that bestowed on Doson by Polybius. But that is not to impugn the genuineness of the king's concern, which may well have been a major factor in his decision to leave the kingdom to the Romans.¹⁴⁹ Once again the conception of Rome's imperial role in terms of *tutela* becomes relevant, as does the fact that all the kings who made such wills seem to have had troubled reigns: their kingdoms were particularly in need of such care.

We are now in a position to offer a general explanation of the rationale behind wills involving Rome. Where a king had an heir who was a minor, the *populus Romanus* could be appointed as *tutor*, but where the king had no successor, he might be led to name the *populus Romanus* as his heir by the variety of interrelated stimuli we have traced. These wills must be understood in the context of the broad relationship between king and Rome: it is from this symbiosis that they sprang.

Under the Principate, the position of the *populus Romanus* with regard to the kings was taken by the emperor himself. The Roman half of the relationship was thereby personalised.¹⁵⁰ Moreover, it was concentrated: the king's main point of contact at Rome, and certainly the most important, must be the emperor and the imperial family, *amici* and freedmen that made up his court. This is nothing new in principle: the special relationship between the royal house of Numidia and the family of Scipio Africanus adequately illustrates the fact that within the republican elite a king could have a special connection with a certain individual or family. But the principle now operated on a higher and more exclusive plane.

¹⁴⁸*II Macc.* 9. 18–29. The authenticity of this letter is not unimpeachable: see Habicht (1976), esp. 3–7, who argues that the letter is a literary invention based on a genuine letter of a Seleucid king. Cf. Doran (1981).

¹⁴⁹Harris (1979) 149 countenances this solicitude as a possible factor.

¹⁵⁰Str. xvii, p. 840; cf. Suet. *Aug.* 48. Cf. above Part I, section 2.

With this change in the nature of the king's relationship with Rome as a whole went a particular change with regard to the practice of will-making. Under the Republic, royal wills seem always to have concerned the Roman state, the *populus Romanus* or simply 'the Romans'. Remarkably, no king is known to have left anything at all to any individual Roman. But under the Principate we hear of legacies not only to the emperor but also to Livia, Antonia, the imperial children, the imperial *amici* and even the imperial freedmen, as in the case of the Herodian wills. As the king formed a relationship with the whole imperial court, so that relationship was reflected in his legacies. Moreover, it was not only the king who formed such a relationship: it was also members of his own family, who formed their own particular connections, as did Salome with Livia and Berenice with Antonia.

It may be that it was not only the type and direction of bequests that changed, but also their frequency. If other royal families made legacies as freely as Herod and his family, the making of wills involving Rome and Romans must have become a far more common phenomenon under the Principate. If we had a Josephus for every dynasty of the period we would be better placed to know whether the Herods' will-making was unusual. Some indication that the Herods were not exceptional are the scraps of evidence for legacies from Amyntas (the best attested), Juba II and Archelaus of Cappadocia. Of course, legacies could be left more readily than a whole kingdom, especially where a king wanted his son(s) to inherit: thus Herod could leave legacies to the emperor and his court *and* pass on his kingdom to his sons. Indeed, the bequest of legacies could only improve his sons' chances of being allowed to succeed by the emperor.

In addition to all this, it must be remembered that under the Principate legacies to the emperor were not a prerogative of royalty. Rather the contrary: such legacies soon became a standard feature of the emperor's relationship with his subjects. So much so that his attitude to the flood of legacies that poured in to him, as well as his attitude to those who did not leave him legacies, became a significant criterion in estimates of his 'goodness.'¹⁵¹

Royal legacies to the emperor and his court are therefore to be seen not only as a development of the will-making practice of kings under the Republic, generated by a changed relationship between king and Rome, but also as one facet of a much wider phenomenon.¹⁵² That legacies to the emperor were so wide a phenomenon must tend to support the suggestion that kings now regularly left legacies to the emperor and his court.

The case of Prasutagus, on the interpretation favoured above, shows that, while legacies were the order of the day, a king without sons to succeed him might still bequeath his kingdom to the emperor. It has been objected that a will of this nature is inconceivable under the Principate, since, in practical terms, the king was at the mercy of the emperor.¹⁵³ Of course it is true that the emperor had the military might

¹⁵¹On legacies to the emperor, see Millar (1977) 153–8, 297, and the literature he cites: cf. Saller (1982) 71–3 and 124–5. See too above n. 113.

¹⁵²This in itself illustrates the integration of kings and their families into the Roman elite.

¹⁵³Levick (1967) 219–20 has raised this objection. It is not disputed that, as she argues, Amyntas did not bequeath his whole kingdom to Augustus, for Amyntas had sons: Dio liii, 26. 3, where Dio is conspicuously silent on any such bequest. On Amyntas' sons, see Levick (1967) 29 and 32.

to seize a kingdom, but so had republican Rome. But that was not the way in which the relationship was operated. As we have seen for the Republic, the relationship entailed a number of interrelated concepts at the centre of which stood *amicitia*. With the Principate the relationship became more concentrated and personalised: Augustus' retention of mementoes of Herod and Antonia's treatment of Agrippa I are some indication that there was even room for affection. In the context of such a relationship the crude use of power by the application of brute force had a role in certain circumstances, but only where the relationship had broken down. Where the relationship functioned well, it was founded upon diplomacy and friendship. The royal wills of the Principate were both a part of this relationship and an expression of it, much as their less-personalised counterparts of a Republic.

This interpretation of the role of royal wills is best illustrated by a further corollary to the personalisation of the relationship between king and Rome. The *populus Romanus* could not die and therefore could make no will. The emperor could die but he could hardly leave his empire to a king. However, the emperor could leave a legacy to a king. Augustus did just that. A neglected passage of Dio states that in his will Augustus left legacies not only to senators and knights but also to kings.¹⁵⁴ In doing this the emperor was responding from his side to his relationship with the kings, just as kings did from their side: he was not led to make these legacies by any threat or crude pressure.

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¹⁵⁴Dio lvi, 32. 2: legacies to kings were made possible under Roman law by the fact that citizenship had become commonplace among kings, for only citizens could receive such legacies, as Crook (1957) 36 valuably observes.

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